



A PROFESSIONAL  
LAW CORPORATION

201 South Main Street  
Suite 1800  
Salt Lake City, Utah  
84111-2218  
Post Office Box 45898  
Salt Lake City, Utah  
84145-0898  
Telephone 801 532-1234  
Facsimile 801 536-6111  
E-Mail: pbl@pblutah.com

September 10, 2002

**FILED**

**SEP 10 2002**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

Michael J. Malmquist

Direct Dial  
(801) 536-6658  
E-Mail  
MMalmquist@pblutah.com

*Docket No 2002-018*

**BY HAND DELIVERY**

Ms. Mary Potter  
Secretary, Board of Oil, Gas and Mining  
Utah Department of Natural Resources  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84114

**Re: Request for Agency Action for Quarry Antone (M/045/021)**

Ms. Potter:

On behalf of Utah Portland Quarries, Inc. ("Utah Portland"), pursuant to Utah Administrative Code Rules R641-105-100, R641-105-600 and R641-105-500, enclosed are the original and 14 copies of the following documents for consideration by the Board:

- 1) **Request for Agency Action** (In the Matter of the Request for Agency Action by Utah Portland Quarries, Inc., for an Extension of the Suspension Period under the Approved Notice of Intention for the Quarry Antone Mining Operation Located in Tooele County, Utah)
- 2) **Petitioner's Exhibits in Support of Request for Agency Action** (In the Matter of the Request for Agency Action by Utah Portland Quarries, Inc., for an Extension of the Suspension Period under the Approved Notice of Intention for the Quarry Antone Mining Operation Located in Tooele County, Utah)

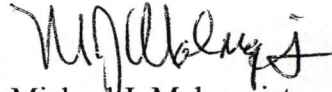
Copies of these documents have also been provided to the Division of Oil, Gas and Mining, their counsel, and counsel for the Board.

Utah Portland also respectfully requests that this matter be heard at the Board hearing scheduled for October 23, 2002. Given the nature of Utah Portland's Request for Agency Action and the Division's tentative indication that it will likely support that Request, it is not currently expected that any discovery will be required.

Ms. Mary Potter  
September 10, 2002  
Page Two

If you have any questions regarding this matter, please contact me at (801)536-6658.

Sincerely,



Michael J. Malmquist

MJM/cvd  
Enclosures

cc: D. Wayne Hedberg, DOGM (w/ Enclosures)  
Steven F. Alder, AAG (w/ Enclosures)  
Kurt E. Seel, AAG (w/ Enclosures)

Greg Morical (w/ Enclosures)  
Harry Philip (w/ Enclosures)



**FILED**

SEP 10 2002

SECRETARY, BOARD OF  
OIL, GAS & MINING

**BEFORE THE BOARD OF OIL, GAS, AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

In the Matter of the Request for Agency Action by Utah Portland Quarries, Inc., for an Extension of the Suspension Period under the Approved Notice of Intention for the **Quarry Antone** Mining Operation Located in Tooele County, Utah

**Request for Agency Action**

Docket No. 2002-018

Cause No. **M/045/021**

Utah Portland Quarries, Inc. ("Utah Portland"), by and through its attorneys, Parsons Behle & Latimer, hereby petitions the Utah Board of Oil, Gas & Mining ("Board") for approval of an extension of the suspension period under the approved Notice of Intention for the Quarry Antone mining operation in Tooele County, Utah (Reclamation Permit No. M/045/021). This petition is made pursuant to Sections 40-8-16(2)(c) and 40-8-21 of the Utah Code and at the direction of the Division of Oil, Gas and Mining.

**STATEMENT OF MATERIAL FACTS**

1. On September 4, 1987, Utah Portland received final approval from the Division of Oil, Gas and Mining ("Division") of its Notice of Intention to Commence Large Mining Operations and Mining and Reclamation Plan ("Notice of Intention" or "Permit") and its Reclamation Surety for the Quarry Antone Mine ("Quarry Antone")

or "Quarry"). Copies of these documents are attached.<sup>1</sup> See Exhibit 1 (Division Approval Letter, Request for Concurrence, Executive Summary and Reclamation Survey) and Exhibit 2 (Notice of Intention).

2. The approved Notice of Intention, designated M/045/021 by the Division, authorized the disturbance of 13.3 acres of land at the Quarry Antone for a surface mining operation for shale and limestone. See Exhibits 1 and 2. The approved Reclamation Surety for the Quarry was a bond issued by Firemen's Insurance Company in the amount of \$32,800. See Exhibit 1.

3. On February 28, 1991, the Board approved a replacement Reclamation Surety and Reclamation Contract submitted by Utah Portland. The Surety was in the form of a bond issued by National Union Fire Insurance Company in the amount of \$34,400, which included a five-year escalation adjustment through the year 1996. A copy of the approval letter, dated March 25, 1991, is attached as Exhibit 3.

4. The Quarry Antone is located in the eastern foothills of the Stansbury Mountains in Tooele County, Utah, about 6 miles south of I-80 and about 4 miles northwest of Grantsville. A map showing the approximate location of the Quarry is included as Exhibit 4.

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<sup>1</sup> The Exhibits are provided in an accompanying pleading titled "Petitioner's Exhibits in Support of Request for Agency Action."



5. Following Division approval in August 1987, Utah Portland mined shale and limestone from the Quarry for use in Utah Portland's cement plant located in Salt Lake City, Utah. The shale contains aluminum and other metals and minerals in quantities that make it useful and valuable for the manufacturing of cement. The limestone has a high calcium content as required for cement manufacture. See Affidavit of Harry M. Philip ("Philip Aff.") ¶ 9. A copy of the Affidavit is attached as Exhibit 5.

6. In the spring of 1988, Utah Portland suspended mining operations at the Quarry Antone and operation of its cement plant in Salt Lake City due to a number of business factors, including financial difficulties at Utah Portland and its parent company, Lone Star Industries, Inc. ("Lone Star"). These financial difficulties resulted, in part, from significant costs incurred by Lone Star for the cleanup of cement kiln dust which had been historically disposed by Utah Portland prior to Lone Star's acquisition of that company. Exhibit 5, Philip Aff. ¶ 11.

7. These financial difficulties drove Lone Star into bankruptcy proceedings and continued until 1994, when Lone Star emerged from Chapter 11 reorganization. Exhibit 5, Philip Aff. ¶ 12. In connection with the resulting restructuring and downsizing, Lone Star's main office was moved from Stamford, Connecticut, to Indianapolis, Indiana, and many of Lone Star's employees left the company, including the employee with primary responsibility for the Quarry Antone. During this same

time many of the files relating to the Quarry Antone were also lost. In effect, during this time of financial difficulty and reorganization Lone Star lost track of the permitting status of the Quarry Antone. Exhibit 5, Philip Aff. ¶ 12.

8. By letter dated April 3, 2001, the Division notified Lone Star that the Division had reviewed the status of the Quarry Antone and had determined the Quarry had been inactive since approximately 1988. Citing Division regulation R647-4-117.4, the Division requested that Lone Star respond with an explanation of why the Quarry should not be reclaimed, and informed Lone Star that if it chose to extend the Permit it would need to increase the amount of the bonds consistent with the Division's policy for escalating bond amounts to keep up with inflation. A copy of the April 3<sup>rd</sup> letter is attached as Exhibit 6.

9. By letter dated May 14, 2001, Lone Star acknowledged receipt of the Division's April 3<sup>rd</sup> letter and informed the Division that Lone Star would institute an internal review of the Quarry's status so that it could respond to the Division's request. A copy of the May 14<sup>th</sup> letter is attached as Exhibit 7.

10. By letter dated July 6, 2001, Lone Star informed the Division that it had been unable to locate the permit files for Quarry Antone, which prevented Lone Star from providing an informed response to the Division's requests, and Lone Star asked for a full copy of the Division's permit file. A copy of the July 6<sup>th</sup> letter is attached as Exhibit 8.



11. Following receipt and review of a copy of the Division's permit file, Lone Star retained a local attorney who, following phone conversations with Division staff, wrote a letter to the Division, dated October 30, 2001, informing the Division that Lone Star did desire to extend the Permit for the Quarry in suspended status. This letter also requested a meeting and site visit with Division staff as a first step in the process of updating the reclamation bonds and extending the Permit, and informed the Division that Lone Star would be retaining a local reclamation consultant to review the Reclamation Plan and cost estimate for the Quarry. A copy of the October 30, 2001 letter is attached as Exhibit 9.

12. Lone Star and the Division then scheduled a site visit and meeting in late fall of 2001, but that appointment was postponed by mutual agreement due to the onset of winter conditions. See March 18, 2002 letter from Harry Philip, Lone Star Vice President to Wayne Hedberg, Division Permit Supervisor, a copy of which is attached as Exhibit 10.

13. In the meantime, Lone Star retained a local engineering and environmental consulting firm which reviewed the Reclamation Plan and cost estimate for the Quarry and prepared a revised and updated cost estimate, dated March 7, 2002. By letter dated March 18, 2002, Lone Star provided this estimate to the Division for review. See Exhibit 10 (attaching letter from JBR Environmental).

14. The March 18<sup>th</sup> Lone Star letter also documented the course of recent dealings between Lone Star and the Division and explained that Lone Star sought to extend the Permit for the Quarry Antone because it hoped to reactivate the Quarry within the next five years, either in connection with a new cement plant or in a potential joint venture with another party. Exhibit 10 at pgs. 3-4.

15. On March 27, 2002, Division reclamation specialists and representatives of Lone Star and Utah Portland conducted a site visit and meeting at the Quarry Antone, which was documented by Division staff in an April 3, 2002 Memorandum. A copy of the April 3<sup>rd</sup> Memorandum is attached as Exhibit 11.

16. As documented in the April 3<sup>rd</sup> Memorandum, the Division's reclamation specialists concluded that Quarry was "very stable with no slope stability or erosion problems," that "much of the disturbed areas at both sites have become naturally revegetated" and that "allowing these sites to remain for an additional five-year period should not result in any significant onsite or offsite environmental impacts or public health and safety concerns to the surrounding area." Exhibit 11 at pg. 2.

17. The Division's April 3<sup>rd</sup> Memorandum also included a review of Lone Star's updated reclamation cost estimate and a revised cost estimate by the Division. The Division's revised estimate, attached in spreadsheet form to the Memorandum, was \$49,900 including a five year escalation factor. See Exhibit 11.



18. On June 4, 2002, Division reclamation specialists conducted another inspection of the Quarry Antone, which is documented in a June 11, 2002 Memorandum. A copy of the June 11<sup>th</sup> Memorandum is attached as Exhibit 12.

19. According to the Division's June 11<sup>th</sup> Memorandum, the purpose of this site visit was to "ascertain the overall site stability and to assess reclamation bond adequacy" at Quarry Antone and at another Lone Star/Utah Portland property. The Division's reclamation specialists concluded that "the sites do not present any environmental problems due to off-site contamination. The natural limestone bedding plane has been utilized to form the highwalls at both sites, therefore the highwalls are very stable. Both sites appear to have self-revegetated and there were not any signs of erosion at either site." See Exhibit 12.

20. The Division's June 11<sup>th</sup> Memorandum further stated that the "bonds for each site were recently escalated to the year 2007. The escalated bond for Quarry Antone was calculated to be \$49,900 . . . . The writer has reviewed the reclamation plans for each site and feels the bonds, as presently calculated, will be sufficient to reclaim each area. This is mainly due to the fact that much of the disturbed areas at each site has self revegetated with volunteer growth. Therefore, any attempt to reclaim some areas will result in destroying more vegetation than the Division would require for vegetation release." See Exhibit 12.

21. The June 11<sup>th</sup> Memorandum further states that "A GPS survey was completed at both sites to document the disturbed acre footprint at each site. The survey indicated that the Quarry Antone area of disturbance to be 11.65 acres; this site is presently permitted to disturb 8 acres. . . . Because both sites are presently out of compliance, it is recommended that Lone Star (1) amend the present permits to include the additional acreage indicated by the GPS survey; and (2) update the existing bonds to the escalated amount, before the Division supports Lone Star's application to extend the period of suspension for these two mines." See Exhibit 12. As indicated below in Paragraph 24, the Division's statement that the existing disturbance at Quarry Antone exceeds the permitted acreage was in error, and has since been clarified and corrected by the Division.

22. By letter dated June 24, 2002, the Division directed that Lone Star should (1) submit a Formal Request for Agency Action seeking a permit extension from the Board of Oil, Gas and Mining; and (2) provide the Division with an updated bond in the amount of \$49,900. A copy of the June 24, 2002 letter is attached as Exhibit 13.

23. By letter dated August 21, 2002, Utah Portland submitted to the Division a Replacement Surety, in the form of a bond issued by SAFECO Insurance Company in the amount of \$49,900, along with a new Reclamation Contract, for the Quarry Antone. A copy of the August 21<sup>st</sup> letter is attached as Exhibit 14.



24. By letter dated September 10, 2002, the Division approved and accepted the Replacement Surety and Reclamation Contract submitted by Utah Portland for the Quarry Antone. The Division also clarified that the existing disturbed area at the Quarry does not exceed the amount of permitted disturbance. A copy of the September 10<sup>th</sup> letter, including the approved Replacement Surety and Reclamation Contract, is attached as Exhibit 15.

25. Lone Star, Utah Portland's parent company, is headquartered in Indianapolis, Indiana. Lone Star currently owns and operates, through various subsidiaries, five cement plants and associated quarries in the Midwest and the Southwest and a slag-grinding and storage facility in New Orleans. It also holds a 25% interest in a cement plant in Kentucky. To distribute its products, Lone Star operates 16 distribution terminals and fleets of river barges and rail cars. The company's customers include ready-mix and pre-stressed concrete makers and highway builders. Exhibit 5, Philip Aff. ¶ 4.

26. Lone Star and Utah Portland seek extension of the Quarry Antone Permit, in continued suspended status, because they hope to reactivate mining operations at the Quarry within the next several years, in connection with either a new cement plant or with an aggregate or similar building material mining operation. The cement plant would be owned and operated by Utah Portland and would use material mined from the quarries as raw material for the cement. While construction of such a

plant is subject to a strengthening of the economy and other contingent business factors, Lone Star remains interested in reestablishing an active presence in the cement business in Utah and the Intermountain West. Exhibit 5, Philip Aff. ¶¶ 16-17.

27. Lone Star is also interested in potential joint ventures or leases with local aggregate, sand and gravel, brick or other similar companies to mine overburden or other material at the Quarry that is not suitable for cement manufacture, which would expose the limestone and other cement-grade materials for future mining by Lone Star. While negotiations for such a venture at Quarry Antone with a local brick company recently fell through, Lone Star continues to look for opportunities in this regard, which also could result in reopening the Quarry in the near to mid term. Exhibit 5, Philip Aff. ¶ 18.

#### REQUEST

28. Lone Star and Utah Portland request that the Board issue an order which allows the approved Notice of Intention for the Quarry Antone to remain in suspended status, without requiring reclamation of the site, for a period of five years. The order would further provide that if the Quarry has not been reopened by the end of this five year period, the Division would reassess the condition of the site and Lone Star/Utah Portland's plans for the Quarry's operation and make a determination regarding reclamation of the Quarry. If at that time the Division determines that the Quarry should be reclaimed, Utah Portland/Lone Star will perform such reclamation unless it



appeals to the Board within thirty days of the Division's determination, in which case the Board will make the ultimate determination on reclamation.

29. The requested course of action makes practical sense, and therefore should be granted by the Board, for at least the following reasons.

a. First, the Quarry site is environmentally stable and does not present public health or safety issues, as confirmed by Division reclamation specialists based on two recent site inspections. See supra ¶¶ 15 – 20. Those specialists concluded that “allowing these sites to remain for an additional five-year period should not result in any significant onsite or offsite environmental impacts or public health and safety concerns to the surrounding area.” Supra ¶ 16 & Exhibit 11.

b. Second, the site is fully bonded to the satisfaction of the Division, in the form of a recently approved reclamation surety escalated for the five year period ending in 2007. See supra ¶ 24 & Exhibit 15.

c. Third, Lone Star hopes to reopen the Quarry during the next several years, and requiring reclamation of the site now could result in the needless expenditure of significant sums of money, possibly in excess of \$100,000. See supra ¶¶ 27 – 28 & Exhibit 5, Philip Aff. ¶ 18.

30. The requested course of action is also within the Board's and the Division's legal discretion under the Utah Mined Land Reclamation Act. As explained below, nothing in the Act requires either the Board or the Division to



require reclamation of a mine that has been inactive for an extended period of time. To the contrary, the Act provides the Board and the Division broad leeway in dealing with such situations, including allowing extended periods of suspension like the one currently being requested by Utah Portland.

a. Section 40-8-21 of the Act provides that for operations that could be in suspended status in excess of two years or five years, the operator shall furnish the Division with such information as “it may require in order to evaluate the status of the mining operation, performance under the reclamation plan, and the probable future status of the mineral deposit and condition of the land affected, and the Division shall “cause an inspection to be made of the property *and take whatever action may be appropriate in furtherance of the purposes of this chapter.*” Utah Code Ann. § 40-8-21 (emphasis added). The self-described purpose of the chapter “is to provide that from the effective date of the act, except as otherwise provided in the act, all mining in the state shall include plans for reclamation of the land affected.” See Utah Code Ann. § 40-8-3.

b. As explained above, for the Quarry Antone Utah Portland and Lone Star have provided the Division with the information contemplated by Section 40-8-21 and the Division has inspected the property and reviewed the reclamation plan. Based on that information and the inspections, the Division requested an updated reclamation cost estimate and an increased reclamation bond, which Lone



Star provided and the Division approved. The Division also concluded that the site is environmentally stable and does not present public health or safety issues, and that “allowing these sites to remain for an additional five-year period should not result in any significant onsite or offsite environmental impacts or public health and safety concerns to the surrounding area.” Exhibit 11 at pg. 2.

c. Thus, pursuant to Section 40-8-21 of the Act, the Division and Board have discretion to grant Utah Portland and Lone Star their requested course of action – a continuation of suspended status for an additional period during which Lone Star hopes to reopen the mine. Nor is there any practical or legal reason not to grant the requested extension.

d. Section 40-8-16 (1) of the Act provides that “an approved notice of intention . . . remains valid for the life of mining operations, as stated in it, unless the board withdraws the approval as provided in Subsection (2).” Subsection 2 provides that “[a]pproval *may* be withdrawn in the event that mining operations are continuously shut down for a period in excess of five years, *unless the extended period is accepted upon application by the operator.*” Utah Code Ann. § 40-8-16 (2) (emphasis added.) Again, this section of the Act does not require reclamation of a mine site in the event of an extended shutdown like the one that has occurred at Quarry Antone, but rather provides the Board and Division with clear discretion to



grant Utah Portland's request for an additional five year suspension period, followed by a reassessment if the Quarry has not been reopened by the end of that period.

e. The Division's regulations also provide the discretion to approve the requested course of action. The pertinent regulation, i.e., the regulation which was in effect at the time the Division approved Utah Portland's Notice of Intention,<sup>2</sup> was taken verbatim from the Section 40-8-21 of the Act. Like the Act, the regulation provides that when an extended period of suspension is expected, and following an information request and site inspection by the Division, the Division can "take whatever action may be appropriate in furtherance of the purposes of this Act," which would include approval of the current extension request. See Utah Admin. Code R613-1M-7 (1987-1988 Version of the Utah Administrative Code). A copy of the relevant version of the regulations is attached as Exhibit 16.

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<sup>2</sup> It is the position of Utah Portland and Lone Star that the suspension regulation in effect at the time the Notice of Intention was approved, not the current suspension regulations, applies to Quarry Antone due to the grandfathering provision of the Utah Mined Land Reclamation Act:

No rule established by the board with respect to mined land reclamation shall have retroactive effect on existing reclamation plans included as part of an approved notice of intention to commence mining operations which was approved prior to the effective date of the rule.

U.C.A. Section 40-8-7(2). The current version of the rule regarding suspension of operations, Utah Admin. Code R647-4-117 (which was numbered R613-004 and had Department of Administrative Rules Control Number 9582 at the time of its adoption, and was subsequently redesignated as R613-4-117 and finally as R647-4-117), was adopted effective December 1, 1988, more than a year after Utah Portland's Notice of Intention was granted for the Quarry Antone. Copies of the relevant pages of the Utah State Bulletin documenting the rule's December 1, 1988 adoption are attached as Exhibit 17. By including an argument in this Request for Agency Action that the Board could grant the requested extension under the current regulation (R647-4-117), Utah Portland and Lone Star do not waive their right to argue, in this or any subsequent proceeding in any forum, the inapplicability of that regulation or the inconsistency of that regulation with the Act.



f. Even if it is assumed that Division's current suspension regulation applies, despite the provision of the Act which grandfathers approved mining operations against after-adopted regulations (see footnote 2, supra), the current regulation also provides the Board with discretion to approve Utah Portland's requested extension. Subsections R647-4-117.1 - 117.3 of the current regulation are essentially equivalent to the suspension regulation that was in effect at the time Utah Portland's Notice of Intention was granted in 1987 (R613-1M-7, see Exhibit 16). The current regulation, however, includes an additional subsection, added in 1988, which provides as follows:

Large mining operations that have been approved for an extended suspension period will be reevaluated on a regular basis. Additional interim reclamation or stabilization measures may be required in order for a large mining operation to remain in a continued state of suspension. Reclamation of a large mining operation may be required after five (5) years of continued suspension. The Division will require complete reclamation of the mine site when the suspension period exceeds 10 years, unless the operator appeals to the Board prior to the expiration of the 10-year period and shows good cause for a longer suspension period.

Utah Admin. Code R647-4-117.4 (2002). Under this subsection, the Board has the discretion to approve a suspension period longer than 10 years upon application by the operator and upon good cause shown.

g. For the same reasons explained above (i.e., safe and

environmentally stable site, adequate surety in place, operator has emerged from bankruptcy as a substantial and reputable company with hopes of reopening the Quarry), the Board can and should grant the request by Utah Portland and Lone Star to extend the suspension period for the Quarry Antone for an additional five years, even assuming *arguendo* that the Division's current suspension regulation applies.

**PRAYER FOR RELIEF**

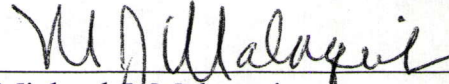
Utah Portland respectfully prays for the following relief:

1. Entry of an Order granting Utah Portland a five year extension of the suspension period for the Quarry Antone under Notice of Intention M/45/021, subject to the condition that if the mine is not reopened by the end of that period the Division will reassess the Quarry's status and make a determination on reclamation, subject to the right of Utah Portland to appeal the Division's determination to the Board within 30 days.
2. Such other relief as the Board deems appropriate and just.



Respectfully submitted this 10<sup>th</sup> day of September, 2002.

PARSONS BEHLE & LATIMER



Michael J. Malmquist  
Attorney for Utah Portland Quarries, Inc. &  
Lone Star Industries, Inc.

Address of Petitioner:

Utah Portland Quarries, Inc.  
10401 N. Meridian St., Suite 400  
Indianapolis, IN 46290

Address of Petitioner's Attorney

Parsons Behle & Latimer  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111

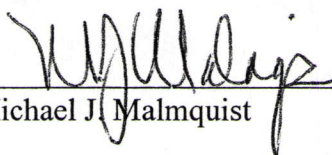
**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of September, 2002, I caused to be hand delivered a true and correct copy of the foregoing **REQUEST FOR AGENCY ACTION (M/045/021)**, to:

D. Wayne Hedberg  
Permit Supervisor  
Mineral Regulatory Program  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P. O. Box 145801  
Salt Lake City, Utah 84114-5801

Kurt E. Seel, Esq.  
Assistant Attorney General  
160 East 300 South, 5<sup>th</sup> Floor  
P. O. Box 140815  
Salt Lake City, Utah 84114-0815  
Attorney for the Board of Oil, Gas & Mining

Steven F. Alder, Esq.  
Assistant Attorney General  
1594 West North Temple, Suite 300  
Salt Lake City, Utah 84116  
Attorney for the Division of Oil, Gas & Mining

  
\_\_\_\_\_  
Michael J. Malmquist



**BEFORE THE BOARD OF OIL, GAS, AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

In the Matter of the Request for Agency Action by Utah Portland Quarries, Inc., for an Extension of the Suspension Period under the Approved Notice of Intention for the **Quarry Antone** Mining Operation in Tooele County, Utah

**Petitioner's Exhibits in Support of Request for Agency Action**

Docket No. \_\_\_\_\_

Cause No. **M/045/021**

Pursuant to Utah Administrative Code Rules R641-105-500 and 600, Petitioner Utah Portland Quarries, Inc. ("Utah Portland") hereby submits the following exhibits in support of its Request for Agency Action in this matter:

- Exhibit 1 -** Division Approval Letter, Request for Concurrence, Executive Summary and Reclamation Survey for Notice of Intention M/045/021 (September 4, 1987).
- Exhibit 2 -** Approved Notice of Intention M/045/021.
- Exhibit 3 -** Letter from Lowell P. Braxton, Division of Oil, Gas and Mining to Mr. Ashby Decker, Lone Star/Utah Portland Quarries, Inc., dated March 25, 1991, approving Utah Portland's Replacement Bond and Reclamation Contract.
- Exhibit 4 -** Quarry Location Map.
- Exhibit 5 -** Affidavit of Harry M. Philip.
- Exhibit 6 -** Letter from D. Wayne Hedberg, Division of Oil, Gas and Mining to Mr. Vincent Smith, Lone Star Industries, Inc., dated April 3, 2001, notifying Lone Star of the status of Antone Quarry.



- Exhibit 7** - Letter from Gregory J. Morical, Lone Star Industries, Inc. to Mr. D. Wayne Hedberg, Division of Oil, Gas and Mining, dated May 14, 2001, informing the Division of review of the Antone Quarry.
- Exhibit 8** - Letter from Gregory J. Morical, Lone Star Industries, Inc. to Mr. D. Wayne Hedberg, Division of Oil, Gas and Mining, dated July 6, 2001, informing Division of inability to locate permit files for the Quarry.
- Exhibit 9** - Letter from Michael J. Malmquist, Parsons Behle & Latimer to D. Wayne Hedberg, Division of Oil, Gas and Mining, dated October 30, 2001, informing Division that Lone Star desired to extend the Permit for the Antone Quarry.
- Exhibit 10** - Letter from Harry M. Philip, Lone Star Industries, Inc. to Mr. D. Wayne Hedberg, Division of Oil, Gas and Mining, dated March 18, 2002, scheduling a site visit.
- Exhibit 11** - Memorandum from Doug Jensen, Division of Oil, Gas and Mining dated April 3, 2002 to Minerals File discussing Quarry conditions.
- Exhibit 12** - Memorandum from Doug Jensen and Paul Baker, Division of Oil, Gas and Mining dated June 11, 2002 to Minerals File discussing Quarry inspection.
- Exhibit 13** - Letter from D. Wayne Hedberg, Division of Oil, Gas and Mining to Mr. Harry Phillip, Lone Star Industries, Inc., dated June 24, 2002, notifying Lone Star to submit a Formal Request and provide the Division with an updated bond.
- Exhibit 14** - Letter from Michael J. Malmquist, Parsons Behle & Latimer to D. Wayne Hedberg, dated August 21, 2002, submitting Replacement Surety (bond) and new Reclamation Contract.



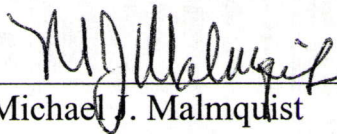
**Exhibit 15** - Letter from D. Wayne Hedberg dated September 10, 2002 to Gregory Morical Approving New Reclamation Surety and New Reclamation Contract for the Antone Quarry.

**Exhibit 16** - Excerpts from Utah Administrative Code 1987-1988 – Vol. 3.

**Exhibit 17** - Excerpts from Utah State Bulletin documenting December 1, 1988 adoption of suspension regulation.

Respectfully submitted this 10<sup>th</sup> day of September, 2002.

PARSONS BEHLE & LATIMER



Michael J. Malmquist  
Attorney for Utah Portland Quarries, Inc. &  
Lone Star Industries, Inc.

Address of Petitioner:

Utah Portland Quarries, Inc.  
10401 N. Meridian St., Suite 400  
Indianapolis, IN 46290

Address of Petitioner's Attorney

Parsons Behle & Latimer  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111

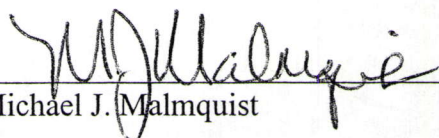
**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of September, 2002, I caused to be hand delivered a true and correct copy of the foregoing **PETITIONER'S EXHIBITS IN SUPPORT OF REQUEST FOR AGENCY ACTION (M/045/021)**, to:

D. Wayne Hedberg  
Permit Supervisor  
Mineral Regulatory Program  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P. O. Box 145801  
Salt Lake City, Utah 84114-5801

Kurt E. Seel  
Assistant Attorney General  
160 East 300 South, 5<sup>th</sup> Floor  
P. O. Box 140815  
Salt Lake City, UT 84114-0815  
Attorney for the Board of Oil, Gas & Mining

Steven F. Alder, Esq.  
Assistant Attorney General  
1594 West North Temple, Suite 300  
Salt Lake City, UT 84116  
Attorney for the Division of Oil, Gas & Mining

  
\_\_\_\_\_  
Michael J. Malmquist





STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

*mine file*

Norman H. Bangerter, Governor  
Dee C. Hansen, Executive Director  
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

September 4, 1987

Mr. Tom Saunders  
Plant Manager  
Utah Portland Quarries, Incorporated  
P.O. Box 1469  
Salt Lake City, Utah 84110

Dear Mr. Saunders:

Re: Final Approval, Mining and Reclamation Plan, Quarry Antone,  
M/045/021, Tooele County, Utah

On August 27, 1987, the Board of Oil, Gas and Mining granted approval on the form and amount of reclamation surety for the above referenced project. The conditions outlined in the Division's Tentative Approval Letter of April 24, 1987, have now been adequately addressed, and formal approval is hereby granted.

Thank you for your cooperation, and best wishes for a successful project.

Sincerely,

*for* *D. Wayne Hedberg*

Lowell P. Braxton  
Administrator  
Mineral Resource Development  
and Reclamation Program

clj  
0851R/86

STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING  
355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
Telephone: (801) 538-5340

Based on Provisions of the Mined Land Reclamation Act, Title 40-8, Utah Code Annotated 1953, General Rules and Regulations and Rules of Practice and Procedures, By Order of the Board of Oil, Gas and Mining.

Please attach other sheets as needed and include cross-reference page numbers when used.

- Name: Utah Portland Quarries, Inc. Address: P.O. Box 1469, S.L.C. UT 84110  
 Name: \_\_\_\_\_ Address: \_\_\_\_\_  
 Name: \_\_\_\_\_ Address: \_\_\_\_\_  
 Name: \_\_\_\_\_ Address: \_\_\_\_\_



6. Owner(s) of record of the minerals to be mined:

Name: Utah Portland Quarries, Inc. Address: P. O. Box 1469, S.L.C. UT 84110  
 Name: \_\_\_\_\_ Address: \_\_\_\_\_  
 Name: \_\_\_\_\_ Address: \_\_\_\_\_  
 Name: \_\_\_\_\_ Address: \_\_\_\_\_

7. Owner(s) of record of all other minerals, including oil and gas, within any part of the land to be affected:

Name: None Address: \_\_\_\_\_  
 Name: \_\_\_\_\_ Address: \_\_\_\_\_  
 Name: \_\_\_\_\_ Address: \_\_\_\_\_

8. Have the above owners been notified in writing? ( ) Yes, ( ) No. If no, why not? N/A

9. Have you or any other person, partnership or corporation associated with you received an approval of a Notice of Intention to Commence Mining Operations by the State of Utah for operations other than described herein? (X) Yes, ( ) No. If yes, list all approval numbers now under surety:

ACT/045/005

10. Source of Operator's legal right to enter and conduct operations on the land to be covered by this Notice:

# Utah Portland Quarries ownership

11. Give the names and mailing addresses of every principal Executive, Office, Partner (or person performing a similar function) of Applicant:

	Name	Title	Address
A.	E.S. Gallacher	President	P.O. Box 1469, S.L.C. UT 84110
B.	Ashby S. Decker	Vice President	P.O. Box 1469, S.L.C. UT 84110
C.			
D.			



12. Has the Applicant, any subsidiary or affiliate or any person, partnership, association, trust or corporation controlled by or under common control with the Applicant, or any person required to be identified by Item 11 ever had an approval of a Notice of Intention to Mine or Explore withdrawn or has surety relating thereto ever been forfeited? ( ) Yes, (X) No.

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please note: Section 40-8-13 of the Act provides that information relating to the location, size or nature of the deposit, and marked confidential by the Operator, shall be protected as confidential information by the Board and the Division and not be a matter of public record in the absence of a written release from the Operator, or until the mining operation has been terminated as provided in Subsection (2) of Section 40-8-21 of the Act. This material should be so marked and included on separate cross-referenced sheets.

13. All maps and plans prepared for submission shall be of adequate scale and detail to show topographic features and clearly indicate the following details:

- A. Location and delineation of the extent of the land previously affected, as well as the proposed surface disturbance.
- B. Existing active or inactive, underground or surface mined areas.
- C. Boundaries of surface properties, including ownership.
- D. Names and locations of:
  - (1) Lakes, rivers, streams, creeks and springs.
  - (2) Roads, highways and buildings.
  - (3) Active or abandoned facilities.
  - (4) Transmission lines within 500 feet of the exterior limits of land affected.
  - (5) Gas and/or oil pipelines.
  - (6) Site elevation.
- E. Drainage patterns of land affected:
  - (1) Overburden or topsoil removal and storage areas.
  - (2) Areas susceptible to erosion.
  - (3) Natural waterways.
  - (4) Constructed drainages, diversions, berms and sediment ponds (design calculations shall be included).
  - (5) Receiving waters (State Health classification).
  - (6) Directional flow of all surface waters (indicated by arrows).
- F. Known drill holes:
  - (1) Location.
  - (2) Status.



- (3) Depths and thicknesses of:
  - a. Water bearing strata.
  - b. Mineral deposits.
  - c. Toxic or potentially toxic materials.
  - d. Surficial or plant supporting material (topsoil and subsoil).
- G. Locations of disposal and stockpile areas:
  - (1) Topsoil and subsoil storage areas.
  - (2) Overburden storage area.
  - (3) Waste, tailings, rejected materials.
  - (4) Raw ore stockpile(s).
  - (5) Tailings-ponds and other sediment control structures.
  - (6) Discharge points, water effluents (see #15[D]).

All maps should have a color code or other suitable legend used in preparation to clearly indicate surface features of the land affected. A general reference map completed on a 7.5 (1:24,000) USGS quadrangle sheet is recommended with additional large scale maps included for practical delineation of individual facilities, (e.g., 1:200, 1:500).

14. Acreage to be disturbed:

- A. Minesite (operating, storage, disposal areas, etc.): 13.31 acres
- B. Access/haul roads/conveyors: \_\_\_\_\_
- C. Associated on-site processing facilities: \_\_\_\_\_

15. Describe mining method to be employed, including:

- A. Mining sequence:
  - (1) Map delineating the yearly sequential disturbance (if surface mine) and/or surficial disturbance.
  - (2) Narrative (including on-site processing or mineral treatment):
    - Area A will be mined during 1985-86.
    - Area B will be mined during 1987-89.
    - Area C will be mined in 1990.
    - Topsoil will be removed and stockpiled in accordance with above schedule.
    - Surface disturbance and mining will be accomplished by ripping.
    - There will be no processing or mineral treatment.

Attach supplemental sheets and/or diagrams as necessary with cross reference to page number here: Map #1 .

\_\_\_\_\_  
\*Stratigraphic or lithologic logs if correlated to footage depths may be presented when labeled (maps or logs should be labeled confidential, if so desired).



- B. If sedimentary deposit seam(s):  
(1) Thickness(es): 100' ±  
(2) Dip: 70°  
(3) Outcrop: None
- C. Will any underground workings or aquifers be encountered? ( ) Yes, ( ) No. If yes, describe potential impacts and protection measures to be taken: The deposit will be mined to a depth of 70'. Drill holes to 100' encountered no water - bearing strata. Average overburden thickness is 4'. Material is basically silica.
- D. Describe any active discharge or proposed discharge of water from mine or site area. Include water quality data and lab test reports. If attached sheets or reports are included, cross reference to page number here: None
16. Have all necessary water rights been appropriated? ( ) Yes, ( ) No. How will water be obtained? Please explain: N/A No water required except that brought in by truck for dust control.
17. Proposed or estimated duration of mining operation: 10 yrs. \*  
Will the permit term be for a lesser amount of time, subject to review? (e.g., for surety estimate reasons). (X) Yes, ( ) No. If yes, how long?  
5 years \* 1-3 month mining/yr.
18. Describe the construction and maintenance of access roads including:  
A. Procedures (drainage and erosion control methods).  
B. Cross section(s).  
C. Profile(s) of proposed road grade(s).  
Dirt road used for access to previous mine operation. This road has been graded and will be maintained during mine operation. An extension of this road has been built to access the mine area. See Map #1
- Attach supplemental diagrams and cross reference to page number here: Map #1.
19. Prior land use(s): Wildlife/grazing/mining  
Current land use(s): Quarrying/grazing  
Possible projected or prospective future land use(s): Grazing



20. Describe methods of tree and brush removal: Stripping  
accomplished with loader and dozer - scraper.

Provide estimate of, and method of obtaining existing vegetation cover (%):

What types of dominant vegetation are present? Cross reference page 2

Photographs and/or maps may be attached to these forms, cross reference to page number here: \_\_\_\_\_.

21. Soils (surficial plant supportive material) and overburden: Except where slope or rocky terrain make it impossible, all surficial materials suitable as a growth medium shall be removed, segregated and stockpiled according to its ability to support vegetation (as determined by soil analysis and/or practical revegetation experience) prior to any major excavation. (Suggested minimum requirements are the top six inches, or the "A" horizon, whichever is larger.)

- A. What is the pH range of the soil before mining? 7.7  
Name of person or agency and method of determining pH: U.S. EPA Method 3.2.2 Ford Chemical Lab.  
Attach lab report if available. Cross reference page number here: 1.
- B. Average depth of topsoil and subsoil to be stripped and stockpiled: 0 - 2'. Calculated volume of soil to be stockpiled: See Map #1.
- C. Describe the method for removing and stockpiling topsoil and subsoil, including measures to protect topsoil from wind and water erosion, compaction and pollutants: Removal by dozer and front end loader.  
Top soil to be stockpiled, and interim vegetation with suitable seed mixture will be used to protect against erosion.
- D. Describe the method for removing and stockpiling overburden. Describe and discuss the acidity or alkalinity (pH) or other characteristics which would affect revegetation:
- (a) Dozer and loader
- (b) No negative effect from soil chemistry anticipated



- E. Rock subjected to processing such as waste rock, tailings, etc., and which is to be disposed of on- or off-site must be subjected to a toxicity analysis. The method of determination, results and suitable disposal methods must be explained in detail, including means for containment and long range stability\*:

No processing of material to be disposed of.

Materials are not toxic

22. Describe the methods used to minimize public safety and welfare hazards during and after mining operations including:

- A. Shaft, tunnel and drill hole closure.
- B. Disposal of trash, scrap metal and wood and extraneous debris, waste oil and solvents, unusable buildings and foundations, sewage and other materials incident to mining.
- C. Posting of appropriate warning signs and/or fences or berms to act as barriers (e.g., above highwalls) in locations where public access is available.
- A. N/A - No shafts, tunnels or adits exist at the site. Drill holes have been properly plugged. No underground mining operations are planned.
- B. Trash, scrap metal, misc. debris, waste oil/solvents will be collected and hauled from the site for proper landfill disposal. Sewage will be collected by portable chemical toilets. No permanent buildings or structures will be constructed at the site.
- C. Signs will be posted at key locations to warn the public and workers of potential dangers, i.e., at access road entry, quarry area, crushing/loading area and equipment storage/use area. Proper signs will be installed upon mine closure to warn the public of potential dangers.

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\*"Toxic" means any chemical or biological or adverse characteristic of the material involved which could reasonably be expected to negatively affect ecological or hydrological systems or could be hazardous to the public safety and welfare.



23. Grading and soil redistribution.

- A. Attach pre- and postmining contour cross sections, typical of regrading designs. Cross reference to page number here: Map #2.
- B. Describe the method(s) of overburden replacement and stabilization and highwall elimination, including: (a) slope factors; (b) lift heights; (c) compaction; (d) terracing, etc., (e) also include testing procedures: A/B See Map 2. Regrading will be done to restore natural grade where possible around quarry but will not be feasible in mined-out area except on the benches resulting from mining. These areas will be covered with app. 2' of topsoil and seeded.  
B(a-d) Highwall will not be eliminated due to resultant high slope stability. (Ref: Adjacent mine site). Post mining highwall will remain near 45°.  
B(e) If required, slope testing procedures can be used (seismic and/or slope indicator on a periodic basis).

Cross Reference No. 5

- C. What method of spreading topsoil and subsoil or upper horizon material on the regraded area will be employed? Dozer - front end loader

1. Indicate the approximate depth of soil cover after final surfacing 0 - 2' ~~1-2' max.~~
2. What tests will be performed to adequately evaluate the potential of the soil to successfully support intended revegetation? When required, after mine closure (Section), chemical "growability" test of CA, Mg, Na, Cond. and pH will be performed.
3. What soil amendments or fertilizers will be needed as an aid to revegetation?  
Type: 18-48-0 Rate: 300 lbs. per acre  
Type: \_\_\_\_\_ Rate: \_\_\_\_\_  
Type: \_\_\_\_\_ Rate: \_\_\_\_\_
4. What additional surface preparations will be used? Describe (a) drainage, erosion and sediment control measures; (b) maximum slope characteristics; and (c) highwall reclamation.  
N/A

No reclamation is planned for the highwall since it will be solid rock. Limited overburden will be reclaimed, spread and compacted and covered with stockpiled topsoil in the areas around the mine-out zones. Both overburden and topsoil quantities are limited.



5. Describe methods which may be particularly applicable to waste disposal areas determined to be potential problem areas.

No overburden material will be disposed of off-site. Low grade rock materials will be stockpiled on-site for future reclamation. No wastes will be generated.

- D. Describe plans for either leaving or reclaiming the roads and pads associated with the operation. Pad areas will be reclaimed by removing overburden to the original grade and revegetating with the appropriate plants. Local mine site roads will be scarafied and covered with top-soil and revegetated.

- 1) Roads and pads be regraded to the approximate original contour where practical, and rip-scarified prior to revegetation.
- 2) During final reclamation, water bars be constructed at 200 to 300 foot intervals on those sections of the haul loop road with grades greater than 8 percent.

24. Impoundments: All evaporation, tailings and sediment ponds; spoil piles, fills, pads and regraded areas shall be self-draining and nonimpounding when abandoned unless previously approved as an impounding facility by a lawful state or federal agency. In view of this, please describe the reclamation of all related areas in the operation and include pertinent items enumerated in C, 1-5 above. No evaporation, tailings or sediment ponds are planned for the mine area. Spoil piles, fills, pads and regraded areas shall be constructed as free draining and nonimpounding due to the coarse, crushed nature of the materials. Such areas will be reclaimed as required. Some natural drainages exist on the site that do show erosion potential. However, these areas will not be disturbed by any mining activity. Where existing natural drainage does show erosion potential, new drainage will be constructed around the proposed site to prevent erosion. This drainage channel will be 4' wide, with the sides sloped at 2:1 lined with 8"-15" rip-rap where the slopes require it. See map. Ref. page 6 and 6a.

25. Revegetation plans:

- A. What organization, agency or person will specifically be performing the revegetation? Utah Portland Quarries Inc. & U.S. Soil Cons. Service
- B. Will the affected area be subject to livestock or wildlife grazing? (x) Yes, ( ) No. Will vegetation protection be needed to allow for a determination of the successful revegetation criteria outlined in the Mined Land Reclamation Act, Rule M-10(12)? ( ) Yes, (x) No. If yes, what measures will the operator take?

UPQ will work closely with DOGM to insure regulations are met

- C. Will irrigation be used? ( ) Yes, (X) No. Type: \_\_\_\_\_  
\_\_\_\_\_ . For how long? \_\_\_\_\_



- D. Test plots initiated during the early stages of mine development provide good bases from which a successful revegetation program can be adapted for later implementation. Will test plots be employed? ( ) Yes, (X) No. If yes, describe on an additional sheet(s) and attach. Cross reference page number here and show location on facilities map: \_\_\_\_\_.
- E. Please attach a revegetation plan and schedule including:
1. Species to be used.
  2. Rate of seed application/acre. Cross Reference
  3. Season to be planted. Page 2
  4. Seedbed preparation techniques.
  5. Planting location, slope face direction, variability, method of application, covering, etc.
  6. Mulch and fertilizer application, if used.
- F. Describe any other maintenance procedures which may be used, if needed, to guarantee successful revegetation: \_\_\_\_\_.

26. Please provide a reclamation schedule including:

- A. Estimated time for construction.
- B. Estimated time for interim reclamation.
- C. Estimated duration of the mining operation.
- D. A time table for the accomplishment of each major step in the reclamation plans. Attach the schedule and cross reference to the page number here: \_\_\_\_\_.

27. A surety guarantee must be provided for the mining operation (see Rule M-5 Mined Land Reclamation Act). In calculating this amount, the Division will consider the following major steps based on the information provided in this report:

- A. Clean up and removal of structures.
- B. Backfilling, grading and contouring.
- C. Topsoil and subsoil redistribution and stabilization.
- D. Revegetation (i.e., preparation, seeding, mulching, irrigation).
- E. Labor.
- F. Safety and fencing.
- G. Monitoring, and reseeding if necessary.

To assist the Division, the operator may attach a list of costs and factors which would satisfy these areas. Substantiation of these factors, i.e., unit costs and how they are derived, should accompany the list. Cross reference the page number here: 4.

28. A request for a variance from specific commitments to Rule M-10 (Reclamation Standards) of the Mined Land Reclamation Act may be submitted with adequate written justification. If after presentation of information adequately detailing the situation, a determination is made that finds a portion of the rule inapplicable, a variance may be granted by the Division.



I hereby commit the applicant to comply with Rule M-10, "Reclamation Standards" in its entirety, as adopted by the Board of Oil, Gas and Mining on March 22, 1978.

The applicant will achieve the reclamation standards for the following categories as outlined in Rule M-10 on all areas of land affected by this mine, unless a variance is granted in writing by the Division.

<u>Rule</u>	<u>Category of Commitment</u>	<u>Variance Requested?</u>
M-10(1)	Land Use	
M-10(2)	Public Safety and Welfare	
M-10(3)	Impoundments	
M-10(4)	Slopes	
M-10(5)	Highwalls	X
M-10(6)	Toxic Materials	
M-10(7)	Roads and Pads	
M-10(8)	Drainages	
M-10(9)	Structures and Equipment	
M-10(10)	Shafts and Portals	
M-10(11)	Sediment Control	
M-10(12)	Revegetation	X
M-10(13)	Dams	
M-10(14)	Soils	

I believe a variance is justified on a site-specific basis for the previous subsections of Rule M-10 as indicated. A narrative statement explaining these concerns is attached.

STATE OF Utah

COUNTY OF Tooele

I, R. Kronstadt, having been duly sworn depose and attest that all of the representations contained in the foregoing application are true to the best of my knowledge; that I am authorized to complete and file this application on behalf of the Applicant and this application has been executed as required by law.

Signed: R. Kronstadt

Taken, subscribed and sworn to before me the undersigned authority in my said county, this 20 day of March, 1987.

Notary Public: Alfred R. Matern

My Commission Expires: April 10, 1987



PLEASE NOTE:

Section 40-8-13(2) of the Mined Land Reclamation Act provides for maintenance of confidentiality concerning certain portions of this report. Please check to see that any information desired to be held confidential is so labeled and included on separate sheets or maps.

Only information relating to the location, size or nature of the deposit may be protected as confidential.

Confidential Information Enclosed: ( ) Yes (X) No

VARIANCE JUSTIFICATION STATEMENTS

Mining and Reclamation Plan Application  
for  
Utah Portland Quarries, Inc.

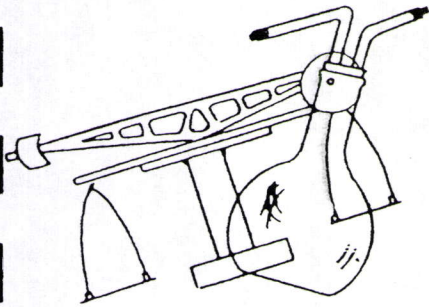
Rule M-10(5), Highwall

As evidenced in several other past mine sites in the area where similar mining techniques were used, the slope stability of the remaining rock highwalls is very high with no evidence of significant failure. Also, the effectiveness or feasibility of slope stability control under these conditions would be highly questioned. Therefore, no need is envisioned to alter or eliminate the remaining rock highwalls. Likewise, no reclamation is planned for the highwall since it will be solid rock.

Rule M-10(12, Revegetation)

A variance is requested for revegetation only within the mined-out area, on the highwall, as discussed previously under Rule M-10(5).





# Ford Chemical

## LABORATORY, INC.

*Bacteriological and Chemical Analysis*

40 WEST LOUISE AVENUE  
SALT LAKE CITY, UTAH 84115  
PHONE 466-8761

DATE: 07/15/86

### CERTIFICATE OF ANALYSIS

KC MATERIALS  
2812 KENTUCKY AVE.  
SALT LAKE CITY, UT  
84117

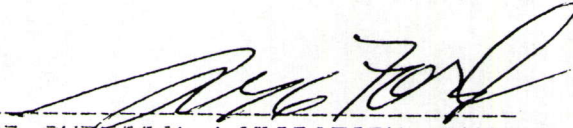
86-005912

SAMPLE: SOIL SAMPLE RECEIVED 7-3-86 FOR ANALYSIS UNDER  
P.O. #5480.

### RESULTS

=====

pH Units (1:1 Ratio) SM423	7.70
----------------------------	------

  
FORD CHEMICAL LABORATORY, INC.



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Norman H. Bangerter  
Governor

Dee C. Hansen  
Executive Director

Dianne R. Nielson, Ph.D.  
Division Director

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340

March 25, 1991

Ms. Carol A. Lang  
Corporate Insurance Administrator  
Lone Star Industries, Inc.  
300 First Stamford Place  
P.O. Box 120014  
Stamford, Connecticut 06912-0014

Dear Ms. Lang:

Re: Final Approval of Replacement Reclamation Sureties, Lone Star Industries, Inc./Utah Portland Quarries, Inc., Little Mountain & Quarry Antone Mines, M/045/005 & M/045/021, Tooele County, Utah

On February 28, 1991, the Board of Oil, Gas and Mining formally approved the amount and form of replacement reclamation sureties provided by Lone Star Industries, Inc./Utah Portland Quarries, Inc. for the Little Mountain & Quarry Antone Mines. Pursuant to the instructions in your October 22, 1990 letter, the Division is hereby releasing and returning the original surety bonds to you, Nos. BDN 335 67 63 (Quarry Antone), and BDN 226 10 30 (Little Mountain). Replacement surety bonds, issued by National Union Fire Insurance Company of Pittsburgh, PA., Nos. 095079 (Quarry Antone), and 095080 (Little Mountain), are now in effect.

Thank you for your patience and cooperation in finalizing these permitting actions. Please contact me or D. Wayne Hedberg of my staff should you have any questions regarding this release of sureties.

Sincerely,

Lowell P. Braxton  
Associate Director, Mining

DWH/jb  
Enclosures

cc: Richard Guarini, National Union Fire Insurance Co.  
Ashby Decker, Lone Star/Utah Portland Quarries, Inc.

M045005.2

an equal opportunity employer





Norman H. Bangerter  
Governor

Dee C. Hansen  
Executive Director

Dianne R. Nielson, Ph.D.  
Division Director

# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340

February 6, 1991

TO: Board of Oil, Gas and Mining

THRU: Dianne R. Nielson, Director *DRN*

THRU: Lowell P. Braxton, Associate Director, Mining *LNB*

FROM: D. Wayne Hedberg, Permit Supervisor *DWH*

RE: Request for Board Concurrence, Amount and Form of Replacement Reclamation Surety, Lone Star Industries, Inc./Utah Portland Quarries, Inc., Quarry Antone Mine, M/045/021, Tooele County, Utah

The Division requests the Board of Oil, Gas and Mining's approval on the amount and form of replacement reclamation surety as provided by Lone Star Industries, Inc., dba. Utah Portland Quarries, Inc., for the Quarry Antone mine site. The mine has been inactive for approximately 3 years and the operator has no immediate plans to reactive the mine in the immediate future (market dependent).

The Board approved the original amount and form of reclamation surety for the Quarry Antone Mine on August 27, 1987. National Union Fire Insurance Company of Pittsburgh, Pennsylvania is the surety company guaranteeing the surety bond. This company is on the 1990 Federally published list of companies found acceptable as sureties and reinsurers on Federal bonds.

Copies of the executive summary, updated surety estimate in 1995 dollars, location map, new Reclamation Contract (FORM MR-RC) and replacement surety bond are attached for your reference. Upon the Board's acceptance of the revised information, the Division will forward a final approval of the replacement surety to Lone Star Industries. We will also return the original surety to the company as well. Thank you for your time and consideration of this request.

jb  
Attachments  
WMN2/2



# DOGM MINERALS PROGRAM

## CHECK LIST FOR BOARD APPROVAL OF FORM AND AMOUNT OF SURETY

Mine Name Quarry Antonio Mine  
File No. M/045/021

Item	Provided		Remarks
	Yes	No	
Executive Summary	X		
Location Map	X		
Reclamation Bond Estimate	X		
Signed Reclamation Contract	X		
Signed Power of Attorney/ Affidavit of Qualification	X		
nd	X		
Surety Signoff (Other State/Federal Agencies)		X	NA

7/6/12



## EXECUTIVE SUMMARY

Prepared November 9, 1990

Mine Name: Quarry Antone  
Operator: Lone Star Industries  
dba Utah Portland Quarries, Inc.  
P. O. Box 1469  
Salt Lake City, Utah 84110  
Telephone: (801) 277-1256  
Contact Person: Ashby Decker

I.D. No: M/045/021  
County: Tooele  
New/Existing: Existing  
Mineral Ownership: Operator  
Surface Ownership: Operator  
Lease No.(s): N/A  
Permit Term: Life of Mine

Life of Mine: 10 years

Legal Description: NE1/4 Section 18, NW1/4 Section 17, SW1/4 Section 8, T2S, R6W, SLBM,  
Tooele County, Utah

Mineral(s) to be Mined: Shale

Mining Methods: Surface Mine

Acres to be Disturbed: 13.3 acres

Present Land Use: Rangeland and mining

Postmining Land Use: Rangeland

Variances from Reclamation Standards (Rule R613) Granted: R613-004-111(7) Highwalls and  
R613-004-111(13) Revegetation

### Soils and Geology:

Soil Description: Upland gravelly loam

pH: 7.7

Special Handling Problems: Slight to moderate erosion hazard

Geology Description: Mississippian age Great Blue Limestone/Manning Canyon Shale. Dip of  
beds is approximately 70 degrees

Hydrology:

Ground Water Description: Water table is located below the zone of mining.

Surface Water Description: An ephemeral drainage crossing the mine site will be diverted around the operation and adequately protected from erosion. No perennial water is found on the permit area.

Water Monitoring Plan: None required

Ecology:

Vegetation Type(s); Dominant Species: Sagebrush, Sanberg bluegrass, Bluebunch wheatgrass, Juniper and Needle and thread grass.

Percent Surrounding Vegetative Cover: 65 percent

Wildlife Concerns: No significant concerns identified.

Surface Facilities: None proposed.

Mining and Reclamation Plan Summary: . . . . .

During Operations:

1. Lone Star Industries will develop and operate a 10-year open pit shale quarry. Open pit mining will proceed from south to north. Two to four feet of overburden material will be removed with dozers and stockpiled for reclamation. The shale deposit will then be mined to a depth of approximately 70 feet utilizing dozers with rippers and front-end loaders.
2. The operation will disturb approximately three acres initially and five additional acres every five years.
3. Prior to each mining advance, topsoil will be stripped, stockpiled and protected from erosion.



4. Mined rock will be transported by truck to Salt Lake City for processing. There will be no waste piles, buildings, foundations, sewage or any associated facilities located on the mine site.

Following Operations:

1. All equipment and extraneous debris will be removed from the minesite.
2. All disturbed areas, including roads, pads and benches will be stabilized and graded to a rounded configuration with slopes not exceeding 2H:1V. Highwalls will be left in a stable condition.
3. Upon reclamation, the stockpiled topsoil will be spread over all disturbed areas including the terraced benches.
4. Standard agronomic practices will be used to prepare the seedbed for drill and/or broadcast seeding. Disturbed areas will be reclaimed with native vegetative species.

Surety:

Amount: \$34,400 (1995 dollars)

Form: Surety Bond

Renewable Term: 5 years

jb  
MNM045021

## SURETY ESTIMATE UPDATE

Utah Portland Quarries

Little Mountain M/045/005 & Quarry Antone M/045/021

Tooele County, Utah

August 29, 1990

Prepared by Utah Division of Oil, Gas & Mining

### Description

Little Mountain \$47,526 (1986)

Quarry Antone \$29,700 (1987)

### Calculations

	<u>YR</u>	<u>%</u> <u>ESCAL</u>	<u>LITTLE</u> <u>MTN</u>	<u>QUARRY</u> <u>ANTONE</u>
$F = P(1 + i)^{**n}$	1986	0.0290	\$47,526	
	1987	0.0210	\$48,524	\$29,700
	1988	0.0195	\$49,470	\$30,279
	1989	0.0181	\$50,366	\$30,827
Three Yr Average = 1.84%	1990	0.0184	\$51,292	\$31,394
Used to Project 5 Yrs	1991	0.0184	\$52,236	\$31,972
Into the Future	1992	0.0184	\$53,197	\$32,560
	1993	0.0184	\$54,176	\$33,159
	1994	0.0184	\$55,173	\$33,770
	1995	0.0184	\$56,188	\$34,391

### Updated Surety Amount Rounded (1995 \$)

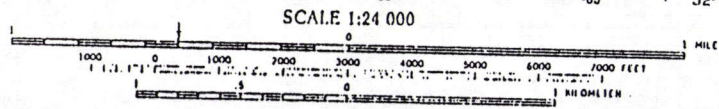
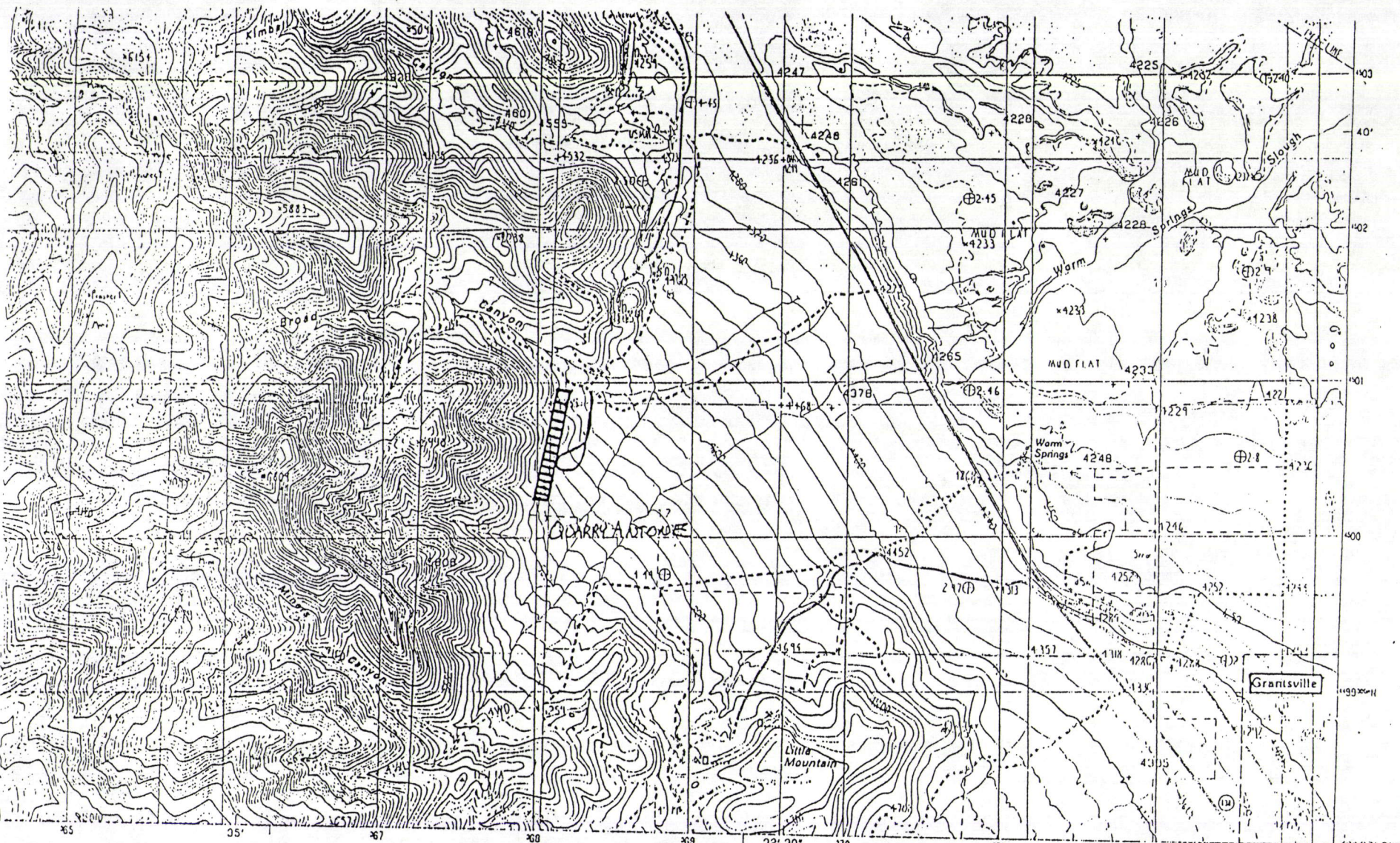
Little Mountain M/045/005

\$56,200

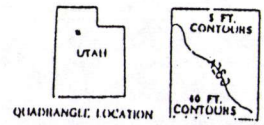
Quarry Antone M/045/021

\$34,400





CONTOUR INTERVAL 5 AND 40 FEET



**ROAD LEGEND**

Improved Road .....  
 Unimproved Road .....  
 Trail .....

( ) Interstate Route { } U.S. Route ( ) State Route

**PROVISIONAL MAP**  
 Produced from original manuscript drawings. Information shown as of date of field check.

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS  
 FOR SALE BY U.S. GEOLOGICAL SURVEY, DENVER, COLORADO. 80225  
 OIL RESTON, VIRGINIA 22097

1	2	3	1 Poverty Flat
4		5	2 Corral Canyon
6	7	8	3 Plug Peak
			4 Tiptoe
			5 Burmader
			6 Salt Mountain
			7 North Willow Canyon
			8 Grantsville

**FLUX, UTAH**  
 PROVISIONAL EDITION 1985



FORM MR-RC  
Revised May 30, 1990  
RECLAMATION CONTRACT

File Number M/045/021

Effective Date \_\_\_\_\_

STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION of OIL, GAS and MINING  
355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
(801) 538-5340

DOGM  
MINERALS PROGRAM  
FILE COPY

RECEIVED  
OCT 25 1990

RECLAMATION CONTRACT  
---ooOoo---

DIVISION OF  
OIL, GAS & MINING

For the purpose of this RECLAMATION CONTRACT the terms below are defined as follows:

"NOTICE OF INTENTION" (NOI): (File No.) M/045/021  
(Mineral Mined) Shale

"MINE LOCATION":  
(Name of Mine) Quarry Antone  
(Description) Tooele County, Utah

"DISTURBED AREA":  
(Disturbed Acres) 13 acres  
(Legal Description) SW 1/4, Sec. 8, NW 1/4 Sec. 17,  
NE 1/4 of Sec. 18, T2S, R 6W SLBM  
(See EXHIBIT A)

"OPERATOR":  
(Company or Name) Utah Portland Quarries, Inc.  
(Address) 629 West 7 South  
Salt Lake City, Utah 84110  
(Phone) (801) 328-4891



"OPERATOR'S REGISTERED AGENT":

(Name)

(Address)

See attached Corporate Data Sheet

(Phone)

"OPERATOR'S OFFICER(S)":

(801) 328-4891

See attached Corporate Data Sheet

"SURETY":

(Form of Surety - Exhibit B)

SEE BOND ATTACHED

"SURETY COMPANY":

(Name, Policy or Acct. No.)

National Union Fire Insurance  
Company of Pittsburgh, Pa.

Bond No.

"SURETY AMOUNT":

(Escalated Dollars)

Thirty Four Thousand Four Hundred (\$34,400)

"ESCALATION YEAR":

1995

"STATE":

Utah

"DIVISION":

Oil, Gas and Mining

"BOARD":

Oil, Gas and Mining

EXHIBITS:

Revision Dates:

A "DISTURBED AREA":

B "SURETY":

10/16/90

This Reclamation Contract (hereinafter referred to as "Contract") is entered into between Operator and the Board.

WHEREAS, Operator desires to conduct mining operations under Notice of Intention (NOI) File No. M/045/021 which has been approved by the Division under the Utah Mined Land Reclamation Act, Sections 40-8-1 et seq., Utah Code Annotated, (1953, as amended) (hereinafter referred to as "Act") and implementing rules; and

WHEREAS, Operator is obligated to reclaim the Disturbed Area in accordance with Operator's approved Reclamation Plan and Operator is obligated to provide surety in form and amount approved by the Board, to assure reclamation of the Disturbed Area.



NOW, THEREFORE, the Board and the Operator agree as follows:

1. Operator agrees to conduct reclamation of the Disturbed Area in accordance with the Act and implementing regulations, the Notice of Intention, and the Reclamation Plan.
2. Concurrent with the execution hereof, Operator has provided surety to assure that reclamation is conducted, in form and amount acceptable to the Board, which surety is in the form of the surety attached hereto as Exhibit B and made a part hereof. The surety shall remain in full force and effect according to its terms unless modified by the Board in writing. If the surety contract expressly provides for cancellation, then, not less than 30 days, prior to the expiration date of the surety, the Operator shall provide a replacement surety in a form and amount acceptable to the Board. If the Operator fails to so provide an acceptable replacement surety, the Division may order the Operator to cease further mining activities and to begin reclamation of the site. In addition, if the Operator fails to so provide an acceptable replacement surety, the Division may call or draw upon the full amount of existing surety prior to cancellation or expiration.
3. Operator agrees to pay public liability and property damage claims resulting from mining as determined by the Board or the Division, to the extent provided in the Act.
4. Operator agrees to perform all duties and fulfill all reclamation requirements applicable to the mine as required by the Act and implementing rules, the Notice of Intention, and the Reclamation Plan.
5. The Operator's liability under this Contract shall continue in full force and effect until the Division certifies that the Operator has reclaimed the Disturbed Area in accordance with the Act and implementing rules, the Notice of Intention and the Reclamation Plan.
6. Operator agrees to indemnify and hold harmless the State, Board and Division from any claim, demand, liability, cost charge, suit, or obligation of whatsoever nature arising from the failure to Operator or Operator's agents, and employees, or contractor to comply with this Contract.
7. Operator may, at any time, submit a request to the Board to substitute surety. The Board, in its sole judgment and discretion, may approve such substitution if the substitute surety meets the requirements of the Act and the implementing rules.



8. This Contract shall be governed and construed in accordance with the laws of the State.
9. If Operator shall default in the performance of its obligations hereunder, Operator agrees to pay all costs and expenses, including attorneys fees and costs incurred by the Division and/or the Board in the enforcement of this Contract.
10. Any breach of the provisions of this Contract by Operator may, at the discretion of the Division, result in an order to cease mining operations. After opportunity for notice and hearing, the Division, or Board, as appropriate, may revoke the Notice of Intention, order reclamation, or order forfeiture of the Surety, or take such other action as is authorized by law.
11. In the event of forfeiture of the Surety, Operator shall be liable for any additional costs in excess of the surety amount which are required to comply with this Contract. Any excess monies resulting from forfeiture of the Surety, upon completion of reclamation and compliance with this Contract, shall be returned to the rightful claimant.
12. This Contract represents the entire agreement of the parties involved, and any modification must be approved in writing by the parties involved.
13. Each signatory below represents that he/she is authorized to execute this Contract on behalf of the named party.

SO AGREED this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

APPROVED AS TO FORM AND AMOUNT OF SURETY:

BY \_\_\_\_\_  
Chairman, Board of Oil, Gas and Mining



DIVISION OF OIL, GAS AND MINING:

By \_\_\_\_\_  
Dianne R. Nielson, Director

\_\_\_\_\_ Date

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss:

On the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, personally appeared before me, who being duly sworn did say that he/she, the said \_\_\_\_\_ is the Director of the Division of Oil, Gas and Mining, Department of Natural Resources, State of Utah, and he/she duly acknowledge to me that he/she executed the foregoing document by authority of law on behalf of the State of Utah.

\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_

\_\_\_\_\_  
My Commission Expires:

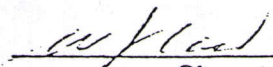


OPERATOR:

Operator Name: Utah Portland Quarriers, Inc.


By William J. Caso, Vice President  
Corporate Officer - Position

October 22, 1990  
Date

  
Signature

STATE OF CONNECTICUT )  
COUNTY OF FAIRFIELD ) ss:

On the 22nd day of October, 19 90, personally  
appeared before me William J. Caso who being  
by me duly sworn did say that he/she, the said William J. Caso.  
is the Vice President of Utah Portland Quarriers, Inc.  
and duly acknowledged that said instrument was signed on behalf of said company by  
authority of its bylaws or a resolution of its board of directors and said  
William J. Caso duly acknowledged to me that said  
company executed the same.

  
Notary Public  
Residing at: Old Greenwich

#58222  
My Commission Expires: 3.31.95

SURETY:

National Union Fire Insurance  
Company of Pittsburgh, Pa.  
Surety Company

By Richard Guarini, Attorney-in-fact  
Company Officer - Position

October 16, 1990  
Date

Richard Guarini  
Signature

STATE OF New York )  
COUNTY OF Nassau ) ss:

On the 16th day of October, 19 90, personally  
appeared before me Richard Guarini who being  
by me duly sworn did say that he/~~she~~; the said Richard Guarini  
is the Attorney-in-fact of National Union Fire Insurance Company  
and duly acknowledged that said instrument was signed on behalf of said company by  
authority of its bylaws or a resolution of its board of directors and said  
Richard Guarini duly acknowledged to me that said  
company executed the same.

IRENE M. KOWALSKI  
NOTARY PUBLIC, State of New York  
No. 4957222  
Qualified in Nassau County  
Commission Expires

Irene M Kowalski  
Notary Public  
Residing at: Manhasset, NY

10-10-91  
My Commission Expires:

NOTE: An affidavit of Qualification must be completed and attached to this form  
for each authorized agent or officer. Where one signs by virtue of Power of Attorney for  
a company, such Power of Attorney must be filed with this Contract.



## EXHIBIT B

MR FORM 5

DOGM  
MINERALS PROGRAM  
FILE COPYSeptember 1990  
(Noncoal)THIS BOND CANCELS AND SUPERCEDES FIREMEN'S  
INSURANCE COMPANY OF NEWARK, N.J. BOND  
NO. BND3356763Bond Number \_\_\_\_\_  
Permit Number M/045/021  
Mine Name Quarry AntoneSTATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES

Division of Oil, Gas and Mining

355 West North Temple

3 Triad Center Suite 350

Salt Lake City, Utah 84180-1203

(801) 538-5340

RECEIVED  
OCT 25 1990DIVISION OF  
OIL, GAS & MINING

## THE MINED LAND RECLAMATION ACT

## SURETY BOND

\*\*\*\*\*

The undersigned UTAH PORTLAND QUARRIES, INC.  
as Principal, and National Union Fire Insurance Company of Pittsburgh, Pa.  
as Surety, hereby jointly and severally bind ourselves, our heirs, administrators,  
executors, successors, and assigns, jointly and severally, unto the State of Utah, Division  
of Oil, Gas and Mining (Division) in the penal sum of Thirty Four Thousand Four Hundred  
dollars (\$ 34,400.00 ).

Principal has estimated in the Mining and Reclamation Plan approved by the  
Division on the 27th day of August, 19 87, that Thirteen (13)  
acres of land will be disturbed by mining operation in the State of Utah.

The lands to be disturbed are described as follows:

Refer to Exhibit A attached hereto and made a part hereof.

The condition of this obligation is that if the Division determines that Principal  
has satisfactorily reclaimed the disturbed lands in accordance with the approved Mining  
and Reclamation Plan and has faithfully performed all requirements of the Mined Land  
Reclamation Act, and complied with the Rules and Regulations adopted in accordance  
therewith, then this obligation shall be void; otherwise it shall remain in full force and  
effect.

If the Mining and Reclamation Plan provides for periodic partial reclamation of  
the disturbed lands, and if the lands are reclaimed in accordance with such Plan, Act  
and regulations, then Principal may apply for a reduction in the amount of this Surety  
Bond.



In the converse, if the Mining and Reclamation Plan provides for a gradual increase in the area disturbed or the extent of disturbance, then, the Division may require that the amount of this Surety Bond be increased, with the written approval of the Surety.

This bond may be canceled by Surety after ninety (90) days following receipt by the Division and Principal of written notice of such cancellation. Surety's liability shall then, at the expiration of said ninety (90) days, cease and terminate except that Surety will remain fully liable for all reclamation obligations of the Principal to be performed prior to the date of termination.

Principal and Surety and their successors and assigns agree to guarantee said obligation and to indemnify, defend, and hold harmless the Division from any and all expenses (including attorney fees) which the Division may sustain in the collection of sums due hereunder.

Surety will give prompt notice to Principal and to the Division of the filing of any petition or the commencement of any proceeding relating to the bankruptcy, insolvency, reorganization, or adjustment of the debts of Surety, or alleging any violation or regulatory requirements which could result in suspension or revocation of the Surety's license to do business.



Dated this 16th day of October, 19 90.

State of Utah  
Board of Oil, Gas and Mining

Gregory P. Williams, Chairman

IN WITNESS WHEREOF, the Principal and Surety hereunto set their signatures and seals as of the dates set forth below.

Date October 22, 1990

Utah Portland Quarries, Inc.  
Principal (Permittee)

By (Name typed): William J. Caso

Title: Vice President

Signature: *W J Caso*

Date October 16, 1990

National Union Fire Insurance  
Company of Pittsburgh, Pa.  
Surety

By (Name typed): Richard Guarini

Title: Attorney-in-fact

Signature: *Richard Guarini*

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Assistant Attorney General

\*NOTE: Where one signs by virtue of Power of Attorney for a Surety, such Power of Attorney must be filed with this bond. If the Operator is a corporation, the bond shall be executed by its duly authorized officer.



Corporate Data Sheet

Corporate Name: Utah Portland Quarries, Inc.

Previous Names: Portland Cement Company of Utah

Date and State of Incorporation: Utah 6/24/58

States Qualified or Registered in: None

Directors

A. S. Decker  
G. E. Fuller  
E. S. Gallacher  
J. J. Martin  
W. M. Troutman

Officers

President:	E. S. Gallacher
Vice President:	A. S. Decker
Vice President and Secretary:	J. J. Martin
Treasurer and Assistant Secretary:	P. R. Griffin
Vice President:	W. J. Caso
Assistant Secretary and Assistant Treasurer:	J. S. Johnson
Assistant Secretary:	C. M. Kraus

Principal office: 629 West 7th South, Salt Lake City, Utah 84110

Subsidiaries: Parleys Trucking Company

Business: Production of Cement

Capitalization:

Shares Authorized: 1,000,000 Par Value: \$100.

Amount Issued: 3,789 Registered Owner: Lone Star  
Industries, Inc.

Number of Voting Shares: 3,789

Date of Annual Meeting: At such date and time as shall be fixed by the  
Board and specified in notice.

Registered Agent for Services of Process: CT Corporation System  
175 South Main Street, Salt Lake City, Utah 84111

Location of Minute Books: 1-3 Corporate Records  
4-5 Law Department

Location of Corporate Seal: Law Department

Location of Certificate of Incorporation: Minute Book #1

Location of Stock Register: Corporate Records

Date of Last Shareholder's Meeting: 11/15/89

Date of Last Director's Meeting: 11/15/89

Tax I. D. Number: 87-0165650

Revised 11/29/89



Corporate Data Sheet

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Previous Names: Portland Cement Company of Utah

Date and State of Incorporation: Utah 6/24/58

States Qualified or Registered in: None

Directors

A. S. Decker  
G. E. Fuller  
E. S. Gallacher  
J. J. Martin  
W. M. Troutman

Officers

President:	E. S. Gallacher
Vice President:	A. S. Decker
Vice President and Secretary:	J. J. Martin
Treasurer and Assistant Secretary:	P. R. Griffin
Vice President:	W. J. Caso
Assistant Secretary and Assistant Treasurer:	J. S. Johnson
Assistant Secretary:	C. M. Kraus

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Date of Last Shareholder's Meeting: 11/15/89

Date of Last Director's Meeting: 11/15/89

Tax I. D. Number: 87-0165650

Revised 11/29/89



## AFFIDAVIT OF QUALIFICATION

Richard Guarini, being first duly sworn, on oath deposes and says that he/~~she~~ is the (officer or agent) Attorney-in-fact of said Surety, and that he/she is duly authorized to execute and deliver the foregoing obligations; that said Surety is authorized to execute the same and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertaking and obligations.

Signed: Richard Guarini  
Surety Officer Richard Guarini

Title: Attorney-in-fact

Subscribed and sworn to before me this 16th day of October, 1990

Irene M. Kowalski  
Notary Public

My Commission Expires:

10-10, 1991

IRENE M. KOWALSKI  
NOTARY PUBLIC, State of New York  
No. 4057222  
Qualified in Nassau County  
Commission Expires

jb  
MNEXHIBITB



## INDIVIDUAL VERIFICATION

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss.:

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 19\_\_\_\_,  
before me personally came \_\_\_\_\_  
to me known and known to me to be the person described in and who executed the foregoing  
instrument, and acknowledged to me that he executed the same.

## PARTNERSHIP VERIFICATION

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss.:

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 19\_\_\_\_,  
before me personally came \_\_\_\_\_, a member of the  
copartnership of \_\_\_\_\_, to me known and known to me  
to be the person described in and who executed the foregoing instrument, and acknowledged to me  
that he executed the same as and for the act and deed of the said copartnership.

## CORPORATE VERIFICATION

STATE OF CONNECTICUT }  
COUNTY OF FAIRFIELD } ss.:

On this 22nd day of October, in the year 1990,  
before me personally came William J. Caso  
to me known, who, being by me duly sworn, did depose and say that he resides in \_\_\_\_\_  
Bethel, CT; that he is the Vice President  
of the Utah Portland Quarriers, Inc.  
the corporation described in and which executed the foregoing instrument; that he knows the cor-  
porate seal of the said corporation; that the seal affixed to the said instrument is such corporate  
seal; and that it was so affixed by order of the Board of Directors of the said corporation, and that  
he signed his name thereto by like order.



#58222  
Expires 3/31/95

(For convenience of Principal in connection with attached bond.)



No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS:

That American Home Assurance Company, a New York corporation, and National Union Fire Insurance Company of Pittsburgh, Pa., a Pennsylvania corporation, does each hereby appoint

---Evangelina L. Dominick, Richard Guarini, John H. Treiber, Howard F. Treiber,  
H. Craig Treiber: of Garden City, New York---

its true and lawful Attorney(s)-in-Fact, with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, Pa. have each executed these presents



this 8 day of August, 1990.

*Mark E. Reagan*  
Mark E. Reagan, Senior Vice President

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.

On this 8 day of August, 1990,  
before me came the above named officer of American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, Pa., to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seals of said corporations thereto by authority of his office.

*Joseph B. Nozzolio*

JOSEPH B. NOZZOLIO  
Notary Public, State of New York  
No. 01-NO4552754  
Qualified in Westchester County  
Term Expires Jan 31, 1992

CERTIFICATE

Excerpts of Resolutions adopted by the Boards of Directors of American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, Pa. on May 18, 1976:

"RESOLVED, that the Chairman of the Board, the President, or any Vice President be, and hereby is, authorized to appoint Attorneys-in-Fact to represent and act for and on behalf of the Company to execute bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, and to attach thereto the corporate seal of the Company, in the transaction of its surety business;

"RESOLVED, that the signatures and attestations of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed with respect to any bond, undertaking, recognizance or other contract of indemnity or writing obligatory in the nature thereof;

"RESOLVED, that any such Attorney-in-Fact delivering a secretarial certification that the foregoing resolutions still be in effect may insert in such certification the date thereof, said date to be not later than the date of delivery thereof by such Attorney-in-Fact."

I, Maureen P. Tully, Secretary of American Home Assurance Company and of National Union Fire Insurance Company of Pittsburgh, Pa. do hereby certify that the foregoing excerpts of Resolutions adopted by the Boards of Directors of these corporations, and the Powers of Attorney issued pursuant thereto, are true and correct, and that both the Resolutions and the Powers of Attorney are in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of each corporation



this 16 day of October, 1990.

*Maureen P. Tully*  
Maureen P. Tully, Secretary



# FINANCIAL STATEMENT

as of DECEMBER 31, 1989

ASSETS		LIABILITIES	
Bonds	2,515,951,792	Reserve for Losses and Loss Expenses	3,778.74
Stocks	846,765,155	Reserve for Unearned Premiums	863.93
Collateral Loans	-0-	Reserve for Expenses, Taxes, Licenses and Fees	23.15
Cash and Bank Deposits	422,549,336	Reserve for Unauthorized Reinsurance	41.85
Agents Balances or Uncollected Premiums	1,054,652,795	Funds Held Under Reinsurance Treaties	63.06
Funds Held by Ceding Reinsurers	51,329,723	Other Liabilities	355.76
Reinsurance Recoverable on Loss Payments	357,654,277	Capital Stock	4.47
Company's Interest In Assets of AIUA and AIUOA	27,799,307	Surplus	980.47
Other Admitted Assets	834,785,983		
<b>TOTAL ASSETS</b>	<b>6,111,488,368</b>	<b>TOTAL POLICYHOLDERS' SURPLUS</b>	<b>984.956</b>
		<b>TOTAL LIABILITIES AND POLICYHOLDERS' SURPLUS</b>	<b>6,111,488</b>

Bonds and stocks are valued in accordance with the basis adopted by the National Association of Insurance Commissioners.  
Securities carried at \$181,820,246 in the above Statement are deposited as required by law.

## CERTIFICATE

MAUREEN P. TULLY, Secretary and Steven Skalicky, Comptroller of the National Union Fire Insurance Company of Pittsburgh, Pa. being duly sworn, each for himself disposes and says that they are the above described officers of the said Company and that on the 31st day of December 31, 1989 the Company was actual possessed of the assets set forth in the foregoing statement and that such assets were available for the payment of losses and claims and held for the protection of its policyholders and creditors, except as hereinbefore indicated, and that the foregoing statement is a correct exhibit of such assets and liabilities of the said company on the 31st day of December, 1989 according to the best of their information, knowledge and belief, respectively.

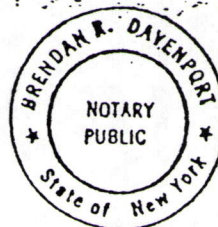


*Maureen P. Tully*  
Secretary

*Steven Skalicky*  
Comptroller

STATE OF NEW YORK }  
COUNTY OF NEW YORK } SS.:

On this 30 Day of April, 19 90. Before me came the above named officers of the National Union Fire Insurance Company of Pittsburgh, Pa., to me personally known to be the individuals and officers described herein, and acknowledged that they executed the foregoing instrument and affixed the seal of said corporation thereto by authority of their office.



*Brendan R. Davenport*  
BRENDAN R. DAVENPORT  
Notary Public, State of New York  
No. 03-4755643  
Qualified in Bronx County  
Certificate Filed in New York County  
Commission Expires July 31, 1990



RECEIVED

NOV 27 1990

DIVISION OF  
OIL, GAS & MINING

EXHIBIT - A

(Disturbed area)

Quarry Anton Shale

File Number: M/045/021

Beginning at the NE corner of Sec. 18, Tp. 6N., R.2W., S.L.B. & M., U.S. Survey, and running th. E. in Section 17 a distance of 250 ft., th. southwesterly 1,275 ft., more or less, to the point of intersection of the E-W 40-acre line with the N-S section line between Sections 17 and 18; th. N. in Section 18 along the 40-acre line a distance of 250 ft.; th. northeasterly 1,275 ft., more or less, to point of beginning.

Containing 7.33 acres, more or less.

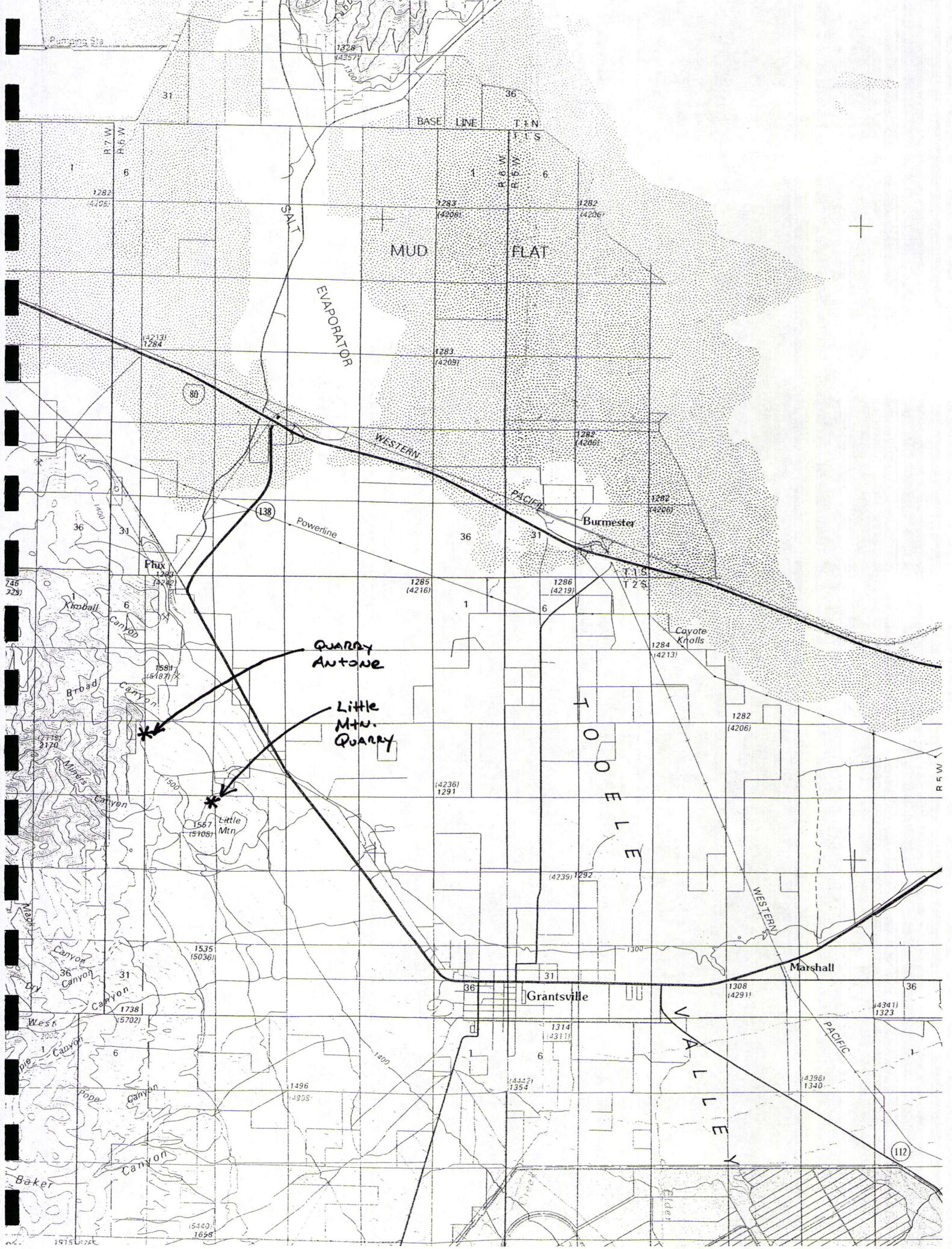
Together with a haul road in Sections 17 and 8, being 2,700' long and approximately 12 ft. wide (.75 acre more or less.)

November 21, 1990

Glen E. Fuller

Glen E. Fuller  
Utah Portland Quarries, Inc.







**BEFORE THE BOARD OF OIL, GAS, AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

In the Matter of the Request for Agency  
Action by Utah Portland Quarries, Inc., for an  
Extension of the Suspension Period under the  
Approved Notice of Intention for the **Quarry**  
**Antone** Mining Operation Located in Tooele  
County, Utah

**Affidavit of Harry M. Philip**

Docket No. \_\_\_\_\_

Cause No. **M/045/021**

I, Harry M. Philip, declare as follows:

1. I make this affidavit on personal knowledge.
2. I am the Vice President of Manufacturing Services for Lone Star Industries, Inc. ("Lone Star"). I am also a Vice President of Utah Portland Quarries, Inc. ("Utah Portland"), a wholly owned subsidiary of Lone Star. I have worked for Lone Star or its subsidiaries in various capacities for approximately twenty years.
3. Utah Portland's primary asset is mineral deposits and land in Tooele County, Utah, suitable for the quarrying and manufacture of cement products.
4. Lone Star, Utah Portland's parent company, is headquartered in Indianapolis, Indiana. Lone Star currently owns and operates, through various subsidiaries, five cement plants and associated quarries in the Midwest and the



Southwest and a slag-grinding and storage facility in New Orleans. It also holds a 25% interest in a cement plant in Kentucky. To distribute its products, Lone Star operates 16 distribution terminals and fleets of river barges and rail cars. The company's customers include ready-mix and pre-stressed concrete makers and highway builders.

5. In my capacity as Vice President I am familiar with and involved in Lone Star's strategic planning, including its plans to expand into new markets and to build new cement plants.

6. I am familiar with the Utah Portland quarry properties in Tooele County, including the Quarry Antone and the Little Mountain Quarry. The quarries are about six miles south of I-80 and a few miles west of Grantsville, Utah, in the foothills of the Stansbury Mountains, and are approximately a mile and a half apart. I have visited these two quarries on several occasions over the last few years.

7. One of my visits to the quarries, on March 27, 2002, was in the company of Doug Jensen and Tom Munson, who are reclamation specialists with the Division of Oil, Gas and Mining ("Division"). Among those accompanying me on the visit was Brian Buck, an engineering, environmental and reclamation consultant with a local firm. Mr. Buck is also familiar with the quarries and has been retained by Lone Star to assist it with evaluation and potential reopening of the quarries. During this



visit we discussed with Division staff the history, and the current condition and permitting status of the quarries, as well as Lone Star's future plans for the quarries.

8. At the end of the site visit the Division reclamation specialists informed me of their tentative conclusion that the two quarries were environmentally stable, did not present public safety issues, and would not suffer from undergoing an additional period of time without being fully reclaimed. They confirmed that conclusion in two site inspection memoranda, dated April 3<sup>rd</sup> and June 11<sup>th</sup>, 2002, which I have reviewed.

9. The Quarry Antone and Little Mountain Quarry contain deposits of minerals that are suitable for the manufacture of cement, including high calcium limestone and a shale that contains aluminum and other metals needed for the cement manufacturing process. They are located a few miles south of another industrial property owned by Utah Portland near I-80 which has road and rail access and is a suitable site for a cement plant.

10. Beginning in approximately 1987 for the Quarry Antone, and 1985 for Little Mountain Quarry, after receiving approval from the Division, Utah Portland mined shale and limestone from the two Quarries for use in Utah Portland's cement plant located in Salt Lake City, Utah.



11. In the spring of 1988, Utah Portland suspended mining operations at the Quarry Antone and operation of its cement plant in Salt Lake City due to a number of business factors, including financial difficulties at Utah Portland and Lone Star. These financial difficulties resulted, in part, from significant costs incurred by Lone Star for the assessment and cleanup of cement kiln dust which had been disposed by Utah Portland prior to Lone Star's acquisition of that company.

12. These financial difficulties drove Lone Star into bankruptcy proceedings and continued until 1994, when Lone Star emerged from Chapter 11 reorganization. In connection with the resulting restructuring and downsizing, Lone Star's main office was moved from Stamford, Connecticut, to Indianapolis, Indiana, and many of Lone Star's employees left the company, including the employee with primary responsibility for the Quarry Antone and the Little Mountain Quarry. During this same time many of the files relating to the two quarries were also lost. In effect, during this time of financial difficulty and reorganization Lone Star lost track of the permitting status of the Quarry Antone and the Little Mountain Quarry.

13. By letter dated April 3, 2001, the Division notified Lone Star that the Division had reviewed the status of the Quarry Antone and Little Mountain Quarry and had determined the quarries had been inactive since approximately 1988. The letter said that Lone Star needed to take action to secure an extension of the suspended



status of the reclamation permits for the quarries, to avoid the possibility of having to completely reclaim the quarries.

14. Since receipt of the April 3<sup>rd</sup> letter, Lone Star and Utah Portland have been working cooperatively with the Division to secure an extension of the reclamation permits for the quarries in suspended status. During that time we retained a reclamation consultant and an attorney in Utah to assist us in our effort to review and extend the permits for the quarries; conducted a joint site visit with Division reclamation specialists to assess the environmental and safety condition of the two quarries; reassessed and updated the estimated cost of reclaiming the quarries and reached an agreement with the Division on the amount of such costs; posted and obtained Division approval of replacement bonds and new reclamation contracts for the two quarries in the agreed-upon dollar amounts; and submitted and obtained Division approval of a minor amendment to the permit for the Little Mountain Quarry in order to rectify the disturbed acreage figure in the original Notice of Intent with the Division's recent on-the-ground estimate.

15. Most recently, in response to direction from the Division in a letter dated June 24, 2002, Lone Star and Utah Portland have prepared and submitted a Request for Agency Action seeking approval by the Board of Oil, Gas and Mining for a five



year extension of the permits for the two quarries in suspended status. This Affidavit was prepared in support of that Request.

16. Lone Star and Utah Portland seek extension of the permits, in continued suspended status, because they hope to reactivate mining operations at the Quarry Antone and Little Mountain Quarry within the next several years, in connection with either a new cement plant or with an aggregate or similar building material mining operation.

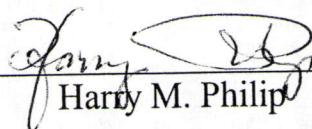
17. The cement plant would be owned and operated by Utah Portland and would use material mined from the quarries as raw material for the cement. While construction of such a plant is subject to a strengthening of the economy and other contingent business factors, Lone Star remains interested in reestablishing an active presence in the cement business in Utah and the Intermountain West.

18. Lone Star and Utah Portland are also interested in potential joint ventures or leases with local aggregate, sand and gravel, brick or other similar companies to mine material at the quarries that is not suitable for cement manufacture, which would expose the limestone and other cement-grade materials for future mining by Utah Portland. While negotiations for such a venture at Quarry Antone with a local brick company recently fell through, Lone Star continues to be approached by third parties interested in such ventures, and continues to look for opportunities in this regard which also could result in reopening the quarries in the near to mid term.



19. In light of these plans and possibilities for reactivating the two quarries, and given the current stability and safety of the two quarry sites and the Division's conclusion that foregoing final reclamation will not cause the sites to deteriorate, it would be inefficient and wasteful to require Utah Portland or Lone Star to reclaim the sites now. Based on the current reclamation cost estimates it could cost Utah Portland and Lone Star over \$100,000 to fully reclaim the two sites, which will effectively be wasted money if the quarries are reopened within the next five years as Lone Star hopes they will be.

Executed this 9th day of September, 2002.

  
Harry M. Philip

STATE OF INDIANA                    )  
  : ss.  
COUNTY OF HAMILTON            )

SUBSCRIBED and SWORN to before me this 9th day of September, 2002.

NOTARY PUBLIC

Residing at: State of Indiana Melissa A. McKinney

My Commission Expires: 6-5-08

MELISSA A. McKINNEY  
Notary Public, State of Indiana  
County of Hendricks  
My Commission Expires Jun 5, 2008





State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor

Kathleen Clarke  
Executive Director

Lowell P. Braxton  
Division Director

1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801  
801-538-5340  
801-359-3940 (Fax)  
801-538-7223 (TDD)

April 3, 2001

CERTIFIED RETURN RECEIPT  
7000 0520 0021 7582 8869

Mr. Vincent Smith  
Lone Star Industries, Inc.  
10401 North Meridian Street Suite 400  
Indianapolis, Indiana 46290

Re: Quarry Inactivity, Utah Portland Quarries, Antone Quarry (M/045/021) and Little Mountain Limestone Quarry (M/045/005), Tooele County, Utah

Dear Mr. Smith:

The Division has recently reviewed the status of the Antone (M/045/021) and Little Mountain Limestone (M/045/005) Quarries. The annual reports submitted to the Division states that the quarries have been inactive since 1988.

Rule R647-4-117.4 of the Utah Mined Land Reclamation Act states:

- Large Mining operations that have been approved for an extended suspension period will be re-evaluated on a regular basis. Additional interim reclamation or stabilization measures may be required in order for a large mining operation to remain in a continued state of suspension. *Reclamation of a large mining operation may be required after 5 (five) years of continued suspension. The Division will require complete reclamation of the mine site when the suspension period exceeds 10 years, unless the operator appeals to the Board prior to the expiration of the 10 year period and shows good cause for a longer suspension period.*

Because these sites have been inactive for a period beyond that which requires reclamation (ten years), the Division hereby requests a written response from Lone Star Industries explaining why the Division should not require immediate reclamation of these two sites. If an extended period of suspension is desired, then your request must be presented before the Board of Oil, Gas and Mining.

If Lone Star Industries chooses to extend the suspension period, the reclamation bonds presently being held by the Division are overdue for a standard five-year reevaluation and escalation. Reclamation bonds held by the Division are normally reviewed and escalated every five years. This escalation process



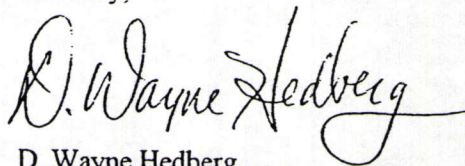
Page 2  
Vincent Smith  
M/045/0212 & M/045/005  
April 3, 2001

involves updating the reclamation costs for activities noted on the bond and escalation of the bond for inflation.

Presently a reclamation surety bond for \$34,400 is being held for the Antone Quarry and \$56,200 for the Little Mountain Quarry. A standard adjustment and five-year escalation to the bond amounts (year 2006 dollars) will become \$48,300 and \$78,800 respectively. This escalation will be necessary only if Lone Star Industries chooses to retain active permits, rather than reclaim the current mine disturbances.

Please notify the Division within 30 days of the date of this letter informing us of your intentions for these permitted mine sites. If you have any questions, please call me at (801) 538-5286, or Doug Jensen at (801) 538-5382. Thank you for your cooperation in this regard.

Sincerely,



D. Wayne Hedberg  
Permit Supervisor  
Minerals Regulatory Program

Jb  
cc: Mary Ann Wright, OGM  
Utah Portland-surety review.doc





# **LONE STAR INDUSTRIES, INC.**

m/45/005

10401 N. Meridian St., Suite 400  
Indianapolis, IN 46290  
317-706-3300

May 14, 2001

VIA FACSIMILE AND US MAIL

Mr. D. Wayne Hedberg  
Permit Supervisor  
State of Utah  
Department of Natural Resources  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801

RE: Quarry Inactivity, Utah Portland Quarries, Antone Quarry (M/045/021) and Little Mountain Limestone Quarry (M/045/005, Tooele County, Utah

Dear Wayne:

The purpose of this letter is to acknowledge your letter dated April 3, 2001 concerning the above-referenced mines. A second purpose of this letter is to inform you I would be working with our operations staff to understand the current status of these mines and recent activity at the mines in order to prepare a written response to your request that we document our desire to retain active permits. I will provide you that written response as soon as we can put it together.

Please feel free to call me with any questions or comments at 317-706-3362.

Sincerely,

Gregory J. Morical  
Assistant General Counsel

KRK/srm





**LONE STAR INDUSTRIES, INC.**

M/45/005  
M/45/021  
10401 N. Meridian St., Suite 400  
Indianapolis, IN 46290  
317-706-3300

July 6, 2001

Mr. D. Wayne Hedberg  
Permit Supervisor  
State of Utah  
Department of Natural Resources  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801

RE: Request for copies: Utah Portland Quarries, Antone Quarry (M/045/021) and  
Little Mountain Limestone Quarry (M/045/005), Tooele County, Utah

Dear Wayne:

The purpose of this letter is to request one copy of each of the files maintained by the Division of Oil, Gas and Mining for the above-referenced quarries. As we discussed yesterday, due to the move of the corporate headquarters of Lone Star Industries, Inc. from Stamford, Connecticut to Indianapolis and the change in personnel at the corporate office, we have been unable to locate a copy of our files on the above-referenced quarries. We would appreciate the opportunity to review that information in order to be able to give you an accurate and complete response to your letter of April 3, 2001, concerning the suspension of activity at the two quarries.

I understand that there may be some fees involved in copying the files for two quarries. I would ask that you make one copy of each file and mail the copies to my attention, along with an invoice setting forth the amount of the fees to be paid to the division for the copy effort.

RECEIVED

JUL 10 2001

DIVISION OF  
OIL, GAS AND MINING



Mr. D. Wayne Hedberg  
Page Two  
July 6, 2001

I appreciate your assistance with respect to this matter. If you should have any questions or comments, please do not hesitate to call me at 317-706-3362.

Sincerely,



Gregory J. Morical  
Assistant General Counsel

cc: Harry Phillip

GJM/srm





A PROFESSIONAL  
LAW CORPORATION

201 South Main Street  
Suite 1800  
Salt Lake City, Utah  
84111-2218  
Post Office Box 45898  
Salt Lake City, Utah  
84145-0898  
Telephone 801 532-1234  
Facsimile 801 536-6111  
E-Mail: pbl@pblutah.com

Michael J. Malmquist

Direct Dial  
(801) 536-6658  
E-Mail  
MMalmquist@pblutah.com

October 30, 2001

D. Wayne Hedberg  
Permit Supervisor  
Mineral Regulatory Program  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P. O. Box 145801  
Salt Lake City, Utah 84114-5801

Re: Antone Quarry (M/045/021) and Little Mountain Quarry (M/045/005)

Dear Mr. Hedberg:

I am writing on behalf of Lone Star Industries ("Lone Star"), which my firm represents. Lone Star desires to extend the suspension period on the above-referenced mines, which it hopes to reactivate within the next few years. We understand, based on your letter of April 3, 2001 and subsequent phone conversations, that in order to extend the suspension period Lone Star needs to work with the Division to update the amounts of the reclamation bonds for the mines and possibly to provide the Division with additional information regarding Lone Star's plans.

As a first step in that process, Lone Star is engaging a local reclamation consultant to review the reclamation plan and cost estimates. Following the consultant's review, Lone Star would like to meet with a representative of your office and, if you think it would be appropriate, go on a site visit with that representative. We suggest a meeting/site visit date sometime during the second week of December, assuming we do not experience delays in retaining an appropriate consultant.

Assuming that the above-described course of action is acceptable, please contact Harry Philip at (317) 706-3303 to determine a mutually agreeable meeting date. If you believe a different course of action is advisable, please give me a call. We look forward to working with you on this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike", is written over the typed name.

Michael J. Malmquist

MJM/cvd

cc: Harry Philip  
Greg Morical





# LONE STAR INDUSTRIES, INC.

FILE COPY

10401 N. Meridian St., Suite 400  
Indianapolis, IN 46219  
317-706-3300

March 18, 2002

D. Wayne Hedberg  
Permit Supervisor  
Mineral Regulatory Program  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P. O. Box 145801  
Salt Lake City, Utah 84114-5801

Re: Antone Quarry (M/045/021) and Little Mountain Quarry (M/045/005)

Dear Wayne:

This letter serves four purposes. First, it explains the circumstances behind Lone Star Industries, Inc. (Lone Star) delayed request for extension of the permits for the above-referenced mines. Second, it documents the recent course of dealings between Lone Star and your office, the Division of Oil, Gas and Mining (Division) regarding the two mines, and particularly regarding efforts to extend the mining permits and update the reclamation bonds. Third, it includes updated estimates of reclamation costs prepared by Lone Star and its consultant, JBR Environmental (JBR), for your review and consideration as the basis for new or supplemental reclamation bonds for the two mines. And fourth, it requests that the Division extend the mining permits for the two mines for an additional five-year term.

As you know, these four topics have been the subject of a series of phone conversations and written and e-mail correspondence between representatives of Lone Star and your office over the last several months. By mutual agreement, Lone Star is summarizing those discussions in this letter, and formally requesting extension of Lone Star's permits. Lone Star understands that the Division is not likely to make a decision on this request until after a site visit, which may not be possible for a few weeks or months due to winter conditions.

## Delayed Extension Request

As you know, by letter of April 3, 2001 the Division notified Lone Star that it had reviewed the status of the Antone and Little Mountain mines and determined they had been inactive since 1988, a period of more than 10 years, and that under Division regulations Lone Star was required to make a showing as to why the mines should continue to be held in suspended status and not



reclaimed. The primary reason that Lone Star did not make such a showing prior to or during 1999 (or 2001) was that during the relevant time period, Lone Star underwent a major corporate reorganization which led to a move of corporate headquarters from Stamford, Connecticut to Indianapolis, Indiana, and to a significant downsizing and change of personnel. In the process, the staff person responsible for Lone Star's Utah properties left the company and some of the relevant files for those properties were lost. In effect, during the period of corporate transition, Lone Star lost track of the status of the Utah properties during the relevant time period.

#### Recent Course of Dealings

By letter dated May 14, 2001, Lone Star responded to the Division by acknowledging receipt of the Division's April 3<sup>rd</sup> letter and informing the Division that Lone Star would institute a review of the mines' status so that it could respond to the Division's request. In July 2001, Lone Star wrote the Division twice, once to pay the annual permit fee for the two mines (July 3<sup>rd</sup>), and once to request a copy of the Division's permit files for the mines because Lone Star's initial review indicated that its files were incomplete (July 6<sup>th</sup>). Following receipt and review of the files, Lone Star retained local counsel and contacted your office to set up a meeting and site visit as a first step in the process for extension of the mine permits, as confirmed by Lone Star in a letter to your office dated October 30, 2001.

A meeting and site visit with Division staff was then scheduled but was postponed by mutual agreement due to the onset of winter conditions. In the meantime, your staff requested that pending rescheduling of the meeting and site visit (which depends on the onset of spring conditions), Lone Star should review the reclamation plans and prepare updated reclamation cost estimates for the mines, for consideration by the Division. In response, Lone Star retained JBR Environmental, a local engineering firm, and performed the requested reclamation cost review, which is discussed below.

As you know, during the period of the above-referenced written correspondence there were also several e-mail and phone contacts between Lone Star with you and your staff regarding these same issues.

#### Updated Reclamation Cost Estimates

Currently, the Division holds reclamation bonds posted by Lone Star for the Antone Quarry mine in the amount of \$34,400, and for the Little Mountain Quarry mine in the amount of \$56,200. For the Antone Quarry mine bond, the cost estimate prior to application of the 5-year escalation factor was \$29,700. For the Little Mountain Quarry mine bond, the pre-escalation cost estimate was \$45,791.

Lone Star and JBR have reviewed the reclamation plans and the existing cost estimates and have calculated updated estimates using unit costs based on current construction estimating guidebooks and recent contractor estimates. The justification for the updated cost estimates, and a comparison to the existing estimates, is provided in Attachment 1 to this letter. In general, the updated estimates utilize the same equipment and quantities that were used for the existing bonds, with specified exceptions. For example, it was determined that the prior estimate did not



include cost estimates for highwall monitoring, revegetation monitoring and reporting, contingencies, and mobilization costs, so estimates were made for these items and added into the total. In addition, the cost estimate for fencing was adjusted to account for what appears to have been an error in the original calculation of the amount of fencing that would be required.

Based on these and other considerations detailed in Attachment 1, the updated reclamation cost estimate for the Antone Quarry mine is \$44,494; applying the Division's current escalation rate of 3.12%, the 5-year escalated reclamation estimate is \$51,882. The updated reclamation cost estimate for the Little Mountain Quarry mine is \$59,055; applying the Division's current escalation rate of 3.12%, the 5-year escalated reclamation estimate is \$68,861.

These are the updated, escalated reclamation cost estimate amounts that Lone Star proposes for bonding purposes for the two mines: \$51,882 for the Antone Quarry mine and \$68,861 for the Little Mountain Quarry mine.

#### Extension of Mine Permits

Lone Star requests that the Division extend the mining permits for the two properties, in suspended status. In its current round of strategic planning, Lone Star is considering constructing a cement plant in Tooele within the next five years, using one or both of the subject properties to supply necessary stone to the plants. As you know, Tooele County is one of the fastest growing areas in Utah, and Lone Star believes this growth presents significant potential for the reopening and use of the mines. Lone Star also understands that some of the existing quarries and pits that serve as sources for cement plants in the area are nearing depletion or are in areas where continued county zoning approvals are somewhat uncertain, which should provide opportunities to supply those facilities with stone from the two properties.

In addition, Lone Star has recently been approached by a third party with a proposal to mine clay or shale from either or both of the mines, under a joint venture or similar arrangement. If an agreement can be reached with this party, and if the material turns out to be of commercial grade, active mining could be a possibility in the relatively near future.

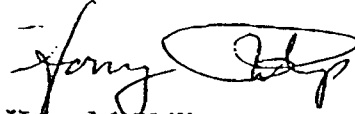
Based on the above, Lone Star requests that the Division extend its permits for the Antone and Little Mountain mines, said mines and permits to be in "inactive" status for the time being. In connection with the same, Lone Star proposes that the bond amounts for the two properties be increased to the amounts specified above (\$51,882 for the Antone mine and \$68,861 for the Little Mountain mine), which Lone Star would accomplish through the posting of a replacement bond or the posting of a supplemental bond or bond rider with the Division for each mine.

Lone Star understands that prior to making a decision on permit renewal, the Division still desires to conduct a field inspection of the two mines with Lone Star personnel, in order to ensure there are no problematic conditions at the site. Lone Star agrees this would be appropriate and stands ready to join the Division in such an inspection, once the site becomes accessible and the snow cover has thinned to the point where meaningful observation of the mines can be made.



Thank you for your consideration of this letter and of Lone Star's request for extension of its mine permits. We look forward to working with you and your office in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Harry M. Philip", with a large, stylized circular flourish at the end.

Harry M. Philip  
Vice President Manufacturing Services



March 7, 2002

Mr. Harry Philip  
Vice President or Manufacturing Services  
Lone Star Industries, Inc.  
10401 N. Meridian Street  
Indianapolis, IN 46290

RE: Little Mountain and Antone Quarries, Tooele County, Utah

Dear Mr. Philip:

We have completed our review of the reclamation plan files for the Little Mountain and Antone quarries in Tooele County, Utah. We reviewed the reclamation plans against the current Utah Division of Oil, Gas, and Mining regulations (DOGM) (Rule R647-4. Large Mining Operations), to identify any regulatory issues that might need to be addressed at this time if Lone Star Industries intends to extend life of these permits. We also updated the reclamation cost estimates. The following items were noteworthy for review in this report:

1. We do not see any deficiencies in the approved mining and reclamation plans that would need to be changed before submitting a revised reclamation cost estimate to DOGM.
2. We prepared the attached cost estimates using the same quantities and methods last used by Lone Star. The tables show the previous cost estimate prepared for each property and the new one. We also show the existing bond amount for each property. The second sheet of the estimate provides some explanatory information. We have generally kept the equipment and quantities the same as the previous estimates but have updated the unit costs based on current construction estimating guidebooks and recent contractor estimates.
3. Both the Little Mountain and Antone permits include a variance from R647-4-111.7 which allows highwall slopes at the quarries to be left at an angle steeper than 45 degrees. The variance requests discussed monitoring the highwalls on a periodic basis. The previous estimates did not include an allowance for this monitoring activity. We have included three annual survey events to accomplish this monitoring in our new cost estimates.
4. Rule R647-4-111.13 describes the general revegetation requirements for successful reclamation and indicates that the revegetation must meet certain characteristics three years following the reclamation before DOGM will consider the reclamation complete. This would require a revegetation inspection and report to



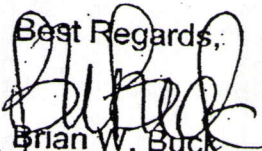
DOGM in the third year following the seeding for each property. We have included \$1,200 for this in our new cost estimates for each site.

5. The past fencing estimate for Little Mountain showed 8,078 linear feet being required although the permit area boundary is about 4,500 linear feet long. From inspection of the maps for this site we cannot determine why the larger quantity of fencing was included in the previous cost estimate. We have used the smaller quantity in our new reclamation cost estimate.
6. DOGM typically includes a contingency amount in reclamation cost estimates to cover unexpected costs. This was done for the previous Antone reclamation cost estimate but not for the Little Mountain one. We have included a 10% contingency for both new cost estimates.
7. The previous reclamation cost estimates did not include any costs for mobilization of the equipment to the sites. This may be appropriate for active mines with equipment on site at the end of operations but for the current inactive condition of both quarries, we think a moderate mob/demob cost is appropriate and \$1,000 for this has been added to the new cost estimates for each site.

The second sheet of the estimate provides descriptions of the reasons why we selected the unit costs used in our new cost estimates.

Please let me know if you have any questions or comments on this information.

Best Regards,

  
Brian W. Buck  
Vice President

cc: M. Malmquist, PB&L  
B. Fuller, JBR  
encl.



LITTLE MOUNTAIN COST ESTIMATE										
		hours	other	units	Original Estimate 1985		Present Estimate 2002		Equipment	
					\$/unit	cost \$	\$/unit	cost \$		
A	Cleanup/removal of structures	40			324.45	12,978	344.20	13,768	dozer, loader	
B	Backfill, grading, contouring	24			362.70	8,705	366.10	8,786	dozer, grader	
C	Topsoil distribution	8			142.45	1,140	146.50	1,172	loader	
D	Revegetation		20	acres	251.70	5,034	365.00	7,300	Tiller, disc, seeder, tractor	
E	Safety & fencing		8078	(A) lin. ft.	2.00	16,256	3.08	13,860		
F	Seed + fertilizer		4500	(B) acres	83.90	1,678	210.00	4,200	seed and fertilizer	
G	mob/demob				0.00	0	Lump Sum	1,000		
H	Post mining monitoring				0.00	0	Lump Sum	3,600	3 yrs surveying and revegetation inspect.	
	SUBTOTAL					45,791		53,686		
I	Contingency (10%)				0.00	0		5,369		
	TOTAL					45,791		59,055		

Current bond being held 56,200

NOTE A - linear feet of fencing used in 1985 estimate

NOTE B - linear feet of fencing used in 2002 estimate

ANTONE COST ESTIMATE										
		hours	other	units	Original study 1987		Present study 2002			
					\$/unit	cost	\$/unit	cost		
A	Dozer	40			125.00	5,000	197.71	7,908	dozer	
B	Cat 950 Loader	40			97.50	3,900	146.48	5,859	loader	
C	14G grader	40			120	4,800	168.35	6,734	grader	
D	Revegetation		13.3	acres	300.45	4,000	365.00	4,855	Tiller, disc, seeder, tractor	
E	Safety & fencing		2500	lin. ft.	2.04	5,100	3.08	7,700		
F	Seed + fertilizer		13.3	acres	315.80	4,200	210.00	2,793	seed and fertilizer	
G	mob/demob				0.00	0	Lump Sum	1,000		
H	Post mining monitoring				0.00	0	Lump Sum	3,600	3 yrs surveying and revegetation inspect.	
	SUBTOTAL					27,000		40,449		
I	Contingency (10%)					2,700		4,045		
	TOTAL					29,700		44,494		

Current bond being held 34,400









# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor

Kathleen Clarke  
Executive Director

Lowell P. Braxton  
Division Director

1594 West North Temple, Suite 1210

PO Box 145801

Salt Lake City, Utah 84114-5801

801-538-5340

801-359-3940 (Fax)

801-538-7223 (TDD)

April 3, 2002

TO: Minerals File

FROM: Doug Jensen, Senior Reclamation Specialist *D. Jensen*

RE: Site Inspection, Quarry Antone & Little Mountain Quarries, M/045/005 & M/045/021, Tooele County, Utah

Date of Inspection: March 27, 2002  
Time of Inspection: 1:00 P.M.  
Conditions: Clear, Sunny & Breezy  
Participants: Harry Philip, Greg Morical, Rod Simmons - Lone Star Industries; Mike Malmquist - PB&L; Brian Buck - JBR, Tom Munson, Doug Jensen - UDOGM

**Purpose of Inspection: Review Inactive Status & Bond Adequacy of Sites**

**Background:**

The inspection of these sites was a result of a Division letter requesting updated information needed for escalation of the bonds presently being held for each site. This letter also stated that because these sites had been inactive for a period beyond that which requires reclamation (ten years) the Division requested a written response explaining why the Division should not require immediate reclamation of both sites.

Lone Star has requested an additional five-year extension (letter attached) of the rule requiring reclamation of these sites (the sites have been inactive since 1988). The company is requesting this extension to allow the company to evaluate the future potential of these properties. Future plans for Lone Star may include the construction of a cement plant in this area. If these plans come into fruition these two sites would provide essential feedstock for these plant

JBR Environmental Consultants, Inc was retained by Lone Star to check the bond estimates calculated for these two sites and recalculate the costs to today's equipment and labor costs. A bond amount for each site was calculated using the Means cost index. The amount to reclaim the Little Mountain Quarry was \$59,055 and Quarry Antone was \$44,494. These costs do not include an escalation factor used by the Division to account for inflation during the term of the bond (5 years).

Bond amounts have been calculated by the Division utilizing cost and labor factors furnished by JBR. A copy of these surety estimates are attached.



**Observations:**

The first site visited was the Quarry Antone. The pit at this site was formed by utilizing a slot type method of mining, the slot is ~ 30 feet wide at the floor. A limestone bedding plane standing at ~70 degrees forms the south highwall of the slot and is very stable. The north highwall is formed of a shale and stands at ~ 80 degrees and does show signs of minor spalling. There is one small dump located on the site that has become overgrown with rabbit brush. The entire site with the exception of the pit bottom, the highwalls, a small push-up area and the access road has naturally revegetated itself and the site shows no evidence of erosion problems.

Little Mountain Quarry was visited next. This site is also appears to be very stable. The mining method used at this site is removal of a hillside. A limestone bedding plane standing at ~70 degrees form a very stable highwall at this quarry.

There are two waste disposal areas associated with this quarry; the dump slopes on each area have become naturally revegetated since the site became inactive. The quarry highwall, floor, the stock pile area, a small silt pond and the access road are the only areas at the site that have not become overgrown since this mining area became inactive. These features form a small portion (~4 to 5 acres) of the overall disturbance associated with this site.

**Conclusions and Recommendations:**

Both sites appear very stable with no slope stability or erosion problems. Due to lack of any mining activity since 1988, much of the disturbed areas at both sites have become naturally revegetated.

Allowing these sites to remain for an additional five-year period should not result in any significant onsite or offsite environmental impacts or public health and safety concerns to the surrounding area.

jb

Attachment: Lone Star request letter

cc: Harry Philip, Lone Star

Mike Malmquist, PB&L

O:\M045-Tooele\M45-05&21-03272002-ins.doc





# **LONE STAR INDUSTRIES, INC.**

10401 N. Meridian St., Suite 400  
Indianapolis, IN 46290  
317-706-3300

March 18, 2002

D. Wayne Hedberg  
Permit Supervisor  
Mineral Regulatory Program  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P. O. Box 145801  
Salt Lake City, Utah 84114-5801

**RECEIVED**

MAR 23 2002

DIVISION OF  
OIL, GAS AND MINING

Re: Antone Quarry (M/045/021) and Little Mountain Quarry (M/045/005)

Dear Wayne:

This letter serves four purposes. First, it explains the circumstances behind Lone Star Industries, Inc. (Lone Star) delayed request for extension of the permits for the above-referenced mines. Second, it documents the recent course of dealings between Lone Star and your office, the Division of Oil, Gas and Mining (Division) regarding the two mines, and particularly regarding efforts to extend the mining permits and update the reclamation bonds. Third, it includes updated estimates of reclamation costs prepared by Lone Star and its consultant, JBR Environmental (JBR), for your review and consideration as the basis for new or supplemental reclamation bonds for the two mines. And fourth, it requests that the Division extend the mining permits for the two mines for an additional five-year term.

As you know, these four topics have been the subject of a series of phone conversations and written and e-mail correspondence between representatives of Lone Star and your office over the last several months. By mutual agreement, Lone Star is summarizing those discussions in this letter, and formally requesting extension of Lone Star's permits. Lone Star understands that the Division is not likely to make a decision on this request until after a site visit, which may not be possible for a few weeks or months due to winter conditions.

## Delayed Extension Request

As you know, by letter of April 3, 2001 the Division notified Lone Star that it had reviewed the status of the Antone and Little Mountain mines and determined they had been inactive since 1988, a period of more than 10 years, and that under Division regulations Lone Star was required to make a showing as to why the mines should continue to be held in suspended status and not



reclaimed. The primary reason that Lone Star did not make such a showing prior to or during 1999 (or 2001) was that during the relevant time period, Lone Star underwent a major corporate reorganization which led to a move of corporate headquarters from Stamford, Connecticut to Indianapolis, Indiana, and to a significant downsizing and change of personnel. In the process, the staff person responsible for Lone Star's Utah properties left the company and some of the relevant files for those properties were lost. In effect, during the period of corporate transition, Lone Star lost track of the status of the Utah properties during the relevant time period.

#### Recent Course of Dealings

By letter dated May 14, 2001, Lone Star responded to the Division by acknowledging receipt of the Division's April 3<sup>rd</sup> letter and informing the Division that Lone Star would institute a review of the mines' status so that it could respond to the Division's request. In July 2001, Lone Star wrote the Division twice, once to pay the annual permit fee for the two mines (July 3<sup>rd</sup>), and once to request a copy of the Division's permit files for the mines because Lone Star's initial review indicated that its files were incomplete (July 6<sup>th</sup>). Following receipt and review of the files, Lone Star retained local counsel and contacted your office to set up a meeting and site visit as a first step in the process for extension of the mine permits, as confirmed by Lone Star in a letter to your office dated October 30, 2001.

A meeting and site visit with Division staff was then scheduled but was postponed by mutual agreement due to the onset of winter conditions. In the meantime, your staff requested that pending rescheduling of the meeting and site visit (which depends on the onset of spring conditions), Lone Star should review the reclamation plans and prepare updated reclamation cost estimates for the mines, for consideration by the Division. In response, Lone Star retained JBR Environmental, a local engineering firm, and performed the requested reclamation cost review, which is discussed below.

As you know, during the period of the above-referenced written correspondence there were also several e-mail and phone contacts between Lone Star with you and your staff regarding these same issues.

#### Updated Reclamation Cost Estimates

Currently, the Division holds reclamation bonds posted by Lone Star for the Antone Quarry mine in the amount of \$34,400, and for the Little Mountain Quarry mine in the amount of \$56,200. For the Antone Quarry mine bond, the cost estimate prior to application of the 5-year escalation factor was \$29,700. For the Little Mountain Quarry mine bond, the pre-escalation cost estimate was \$45,791.

Lone Star and JBR have reviewed the reclamation plans and the existing cost estimates and have calculated updated estimates using unit costs based on current construction estimating guidebooks and recent contractor estimates. The justification for the updated cost estimates, and a comparison to the existing estimates, is provided in Attachment 1 to this letter. In general, the updated estimates utilize the same equipment and quantities that were used for the existing bonds, with specified exceptions. For example, it was determined that the prior estimate did not



include cost estimates for highwall monitoring, revegetation monitoring and reporting, contingencies, and mobilization costs, so estimates were made for these items and added into the total. In addition, the cost estimate for fencing was adjusted to account for what appears to have been an error in the original calculation of the amount of fencing that would be required.

Based on these and other considerations detailed in Attachment 1, the updated reclamation cost estimate for the Antone Quarry mine is \$44,494; applying the Division's current escalation rate of 3.12%, the 5-year escalated reclamation estimate is \$51,882. The updated reclamation cost estimate for the Little Mountain Quarry mine is \$59,055; applying the Division's current escalation rate of 3.12%, the 5-year escalated reclamation estimate is \$68,861.

These are the updated, escalated reclamation cost estimate amounts that Lone Star proposes for bonding purposes for the two mines: \$51,882 for the Antone Quarry mine and \$68,861 for the Little Mountain Quarry mine.

#### Extension of Mine Permits

Lone Star requests that the Division extend the mining permits for the two properties, in suspended status. In its current round of strategic planning, Lone Star is considering constructing a cement plant in Tooele within the next five years, using one or both of the subject properties to supply necessary stone to the plants. As you know, Tooele County is one of the fastest growing areas in Utah, and Lone Star believes this growth presents significant potential for the reopening and use of the mines. Lone Star also understands that some of the existing quarries and pits that serve as sources for cement plants in the area are nearing depletion or are in areas where continued county zoning approvals are somewhat uncertain, which should provide opportunities to supply those facilities with stone from the two properties.

In addition, Lone Star has recently been approached by a third party with a proposal to mine clay or shale from either or both of the mines, under a joint venture or similar arrangement. If an agreement can be reached with this party, and if the material turns out to be of commercial grade, active mining could be a possibility in the relatively near future.

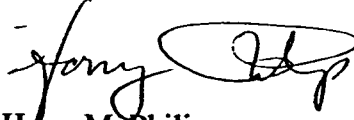
Based on the above, Lone Star requests that the Division extend its permits for the Antone and Little Mountain mines, said mines and permits to be in "inactive" status for the time being. In connection with the same, Lone Star proposes that the bond amounts for the two properties be increased to the amounts specified above (\$51,882 for the Antone mine and \$68,861 for the Little Mountain mine), which Lone Star would accomplish through the posting of a replacement bond or the posting of a supplemental bond or bond rider with the Division for each mine.

Lone Star understands that prior to making a decision on permit renewal, the Division still desires to conduct a field inspection of the two mines with Lone Star personnel, in order to ensure there are no problematic conditions at the site. Lone Star agrees this would be appropriate and stands ready to join the Division in such an inspection, once the site becomes accessible and the snow cover has thinned to the point where meaningful observation of the mines can be made.



Thank you for your consideration of this letter and of Lone Star's request for extension of its mine permits. We look forward to working with you and your office in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Harry M. Philip", with a large, stylized loop at the end.

Harry M. Philip  
Vice President Manufacturing Services



March 7, 2002

Mr. Harry Philip  
Vice President or Manufacturing Services  
Lone Star Industries, Inc.  
10401 N. Meridian Street  
Indianapolis, IN 46290

RE: Little Mountain and Antone Quarries, Tooele County, Utah

Dear Mr. Philip:

We have completed our review of the reclamation plan files for the Little Mountain and Antone quarries in Tooele County, Utah. We reviewed the reclamation plans against the current Utah Division of Oil, Gas, and Mining regulations (DOGM) (Rule R647-4. Large Mining Operations), to identify any regulatory issues that might need to be addressed at this time if Lone Star Industries intends to extend life of these permits. We also updated the reclamation cost estimates. The following items were noteworthy for review in this report:

1. We do not see any deficiencies in the approved mining and reclamation plans that would need to be changed before submitting a revised reclamation cost estimate to DOGM.
2. We prepared the attached cost estimates using the same quantities and methods last used by Lone Star. The tables show the previous cost estimate prepared for each property and the new one. We also show the existing bond amount for each property. The second sheet of the estimate provides some explanatory information. We have generally kept the equipment and quantities the same as the previous estimates but have updated the unit costs based on current construction estimating guidebooks and recent contractor estimates.
3. Both the Little Mountain and Antone permits include a variance from R647-4-111.7 which allows highwall slopes at the quarries to be left at an angle steeper than 45 degrees. The variance requests discussed monitoring the highwalls on a periodic basis. The previous estimates did not include an allowance for this monitoring activity. We have included three annual survey events to accomplish this monitoring in our new cost estimates.
4. Rule R647-4-111.13 describes the general revegetation requirements for successful reclamation and indicates that the revegetation must meet certain characteristics three years following the reclamation before DOGM will consider the reclamation complete. This would require a revegetation inspection and report to



DOGM in the third year following the seeding for each property. We have included \$1,200 for this in our new cost estimates for each site.

5. The past fencing estimate for Little Mountain showed 8,078 linear feet being required although the permit area boundary is about 4,500 linear feet long. From inspection of the maps for this site we cannot determine why the larger quantity of fencing was included in the previous cost estimate. We have used the smaller quantity in our new reclamation cost estimate.
6. DOGM typically includes a contingency amount in reclamation cost estimates to cover unexpected costs. This was done for the previous Antone reclamation cost estimate but not for the Little Mountain one. We have included a 10% contingency for both new cost estimates.
7. The previous reclamation cost estimates did not include any costs for mobilization of the equipment to the sites. This may be appropriate for active mines with equipment on site at the end of operations but for the current inactive condition of both quarries, we think a moderate mob/demob cost is appropriate and \$1,000 for this has been added to the new cost estimates for each site.

The second sheet of the estimate provides descriptions of the reasons why we selected the unit costs used in our new cost estimates.

Please let me know if you have any questions or comments on this information.

Best Regards,



Brian W. Buck  
Vice President

cc: M. Malmquist, PB&L  
B. Fuller, JBR  
encl.



LITTLE MOUNTAIN COST ESTIMATE										
		hours	other	units	Original Estimate 1985		Present Estimate 2002		Equipment	
					\$/unit	cost \$	\$/unit	cost \$		
A	Cleanup/removal of structures	40			324.45	12,978	344.20	13,768	dozer, loader	
B	Backfill, grading, contouring	24			362.70	8,705	366.10	8,786	dozer, grader	
C	Topsoil distribution	8			142.45	1,140	146.50	1,172	loader	
D	Revegetation		20	acres	251.70	5,034	365.00	7,300	Tiller, disc, seeder, tractor	
E	Safety & fencing		8078	(A) lin. ft.	2.00	16,256	3.08	13,860		
F	Seed + fertilizer		4500	(B) acres	83.90	1,678	210.00	4,200	seed and fertilizer	
G	mob/demob				0.00	0	Lump Sum	1,000		
H	Post mining monitoring				0.00	0	Lump Sum	3,600	3 yrs surveying and revegetation inspect.	
	SUBTOTAL					45,791		53,686		
I	Contingency (10%)				0.00	0		5,369		
	TOTAL					45,791		59,055		

Current bond being held	56,200
-------------------------	--------

NOTE A - linear feet of fencing used in 1985 estimate

NOTE B - linear feet of fencing used in 2002 estimate

ANTONE COST ESTIMATE										
		hours	other	units	Original study 1987		Present study 2002			
					\$/unit	cost	\$/unit	cost		
A	Dozer	40			125.00	5,000	197.71	7,908	dozer	
B	Cat 950 Loader	40			97.50	3,900	146.48	5,859	loader	
C	14G grader	40			120	4,800	168.35	6,734	grader	
D	Revegetation		13.3	acres	300.45	4,000	365.00	4,855	Tiller, disc, seeder, tractor	
E	Safety & fencing		2500	lin. ft.	2.04	5,100	3.08	7,700		
F	Seed + fertilizer		13.3	acres	315.80	4,200	210.00	2,793	seed and fertilizer	
G	mob/demob				0.00	0	Lump Sum	1,000		
H	Post mining monitoring				0.00	0	Lump Sum	3,600	3 yrs surveying and revegetation inspect.	
	SUBTOTAL					27,000		40,449		
I	Contingency (10%)					2,700		4,045		
	TOTAL					29,700		44,494		

Current bond being held	34,400
-------------------------	--------



notes



# RECLAMATION SURETY ESTIMATE

Lone Star, Inc  
 Little Mountain Quarry  
 M/045/005

last revision  
 filename M045-005.WB2  
 Tooele County

04/01/02  
 page "estimate D7"

Prepared by Utah State Division of Oil, Gas & Mining

-This bond calculated using unit and labor costs furnished by JBR Environmental Consultants, Inc.

**Note: actual unit costs may vary according to site conditions** last unit cost update 02-Aug-00

-Amount of disturbed area which will receive reclamation treatments = 20 acres

-Estimated total disturbed area for this mine = 20 acres

Activity	Quantity	Units	\$/unit	\$	Note
Safety gates, signs, etc. (mtls & installation)	0	sum	200	0	
Clean-up & removal of structures	40	hours	344	13768	
Backfill, grading, recontouring	24	hours	366	8786	
Topsoil redistribution	8	hours	147	1172	
Safety & fencing	4500	lf	3.08	13860	
Revegetation	20	acres	365	7300	
Broadcast seeding & fertilizer	20	acres	210	4200	
Post mining monitoring	1	lump sum	3600	3600	
Equipment mobilization	1	equip	1000	1000	
Reclamation supervision	4	days	386	1544	
10% Contingency		Subtotal		55230	
				5523	
Escalate for 5 years at 2.82% per year		Subtotal		60753	
				9063	
		Total		69817	
Rounded surety amount in year 2007 \$				69800	
Average cost per disturber acre =				3491	



# RECLAMATION SURETY ESTIMATE

Lone Star Industries, Inc

Quarry Antone

M/045/021

Prepared by Utah State Division of Oil, Gas & Mining

last revision

04/02/02

filename M045-021.WB2

page "estimate D7"

Tooele County

-This bond calculated using unit and labor costs furnished by JBR Consultants, Inc.

Note: actual unit costs may vary according to site conditions last unit cost update 02-Aug-00

-Amount of disturbed area which will receive reclamation treatments = 13.3 acres  
-Estimated total disturbed area for this mine = 13.3 acres

Activity	Quantity	Units	\$/unit	\$	Note
Safety gates, signs, etc. (mtls & installation)	0	sum	200	0	
Dozer	40	hours	197.71	7908.4	
Cat 950 Loader	40	hours	146.48	5859	
14G Grader	40	hours	168.35	6734	
Regrading facilities areas (1 ft depth)	0	acre	502	0	
Revegetation	13.3	acre	365	4855	
Safety & Fencing	2500	lf	3.08	7700	
Seed & Fertilizer	13.3	acres	210	2793	
Post Mining Monitoring	1	lump sum	3600	3600	
Equipment mobilization	1	equip	1000	1000	
Reclamation supervision	4	days	386	1544	
10% Contingency	Subtotal			39449	
				3945	
Escalate for 5 years at 2.82% per year	Subtotal			43394	
				6474	
	Total			49868	
Average cost per disturber acre =				3749	
Rounded surety amount in year 2007 \$				49900	





# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

1594 West North Temple, Suite 1210

PO Box 145801

Salt Lake City, Utah 84114-5801

(801) 538-5340 telephone

(801) 359-3940 fax

(801) 538-7223 TTY

www.nr.utah.gov

Michael O. Leavitt  
Governor

Robert L. Morgan  
Executive Director

Lowell P. Braxton  
Division Director

June 11, 2002

TO: Minerals File  
FROM: Doug Jensen, Paul Baker, Reclamation Specialists  
RE: Site Inspection, Lone Star Industries, Inc., Little Mountain Quarry, M/045/005, Quarry Antone, M/045/021, Tooele County, Utah

Date of Inspection: June 4, 2002  
Time of Inspection: 9:30 AM  
Conditions: Warm, Breezy  
Participants: Doug Jensen, Paul Baker, DOGM

#### Purpose of Inspection:

Lone Star Industries recently sent a letter to the Division requesting an extension of Rule R647-4-117.4 which requires the reclamation of sites that have been in suspension for a period of more than 10 years. The Division inspected the sites in question to ascertain the overall site stability and to assess reclamation bond adequacy for each.

#### Getting to the site:

The sites are located 34 miles west of Salt Lake off I-80 and 4 to 5 miles west of Grantsville on State Route 138. Both sites are located on the south side of the road in the low foothills.

#### Observations:

Because these two sites are limestone quarries the sites do not present any environmental problems due to off-site contamination. The natural limestone bedding plane has been utilized to form the highwalls at both sites, therefore highwalls are very stable.

Both sites appear to have self-revegetated and there were not any signs of erosion at either site. The vegetation in areas surrounding the sites is a sagebrush/grass community with dominant species including big sage, bluebunch wheatgrass, Utah juniper, downy brome, and Sandberg bluegrass. The topsoil piles at Quarry Antone were vegetated with crested wheatgrass and alfalfa. Disturbed areas at both sites have self-revegetated with a dominant community of rabbitbrush.

There are multiple piles of harvested soil at the Quarry Antone site. The amount of soil harvested at the Little Mountain site appears to be minimal, amended over-burden material may have to be used in areas of the site requiring soil replacement.



A GPS survey was completed at both sites to document the disturbed acre footprint at each site. The survey indicated that the Quarry Antone area of disturbance to be 11.65 acres; this site is presently permitted to disturb 8 acres. The Little Mountain Quarry survey showed a disturbance of 23.29 acres; this site is permitted to disturb an area of 20 acres.

**Conclusions and Recommendations:**

The bonds for each site were recently escalated to the year 2007. The escalated bond for Quarry Antone was calculated to be \$49,900 and Little Mountain bond was calculated at \$69,900. The writer has reviewed the reclamation plans for each site and feels that the bonds, as presently calculated, will be sufficient to reclaim each area. This is mainly due to the fact that much of the disturbed areas at each site has self revegetated with volunteer growth. Therefore, any attempt to reclaim some areas will result in destroying more vegetation than the Division would require for vegetation release. However, should Lone Star choose to expand the present plan to include any future mining areas, the present bond will need to be reassessed because future mining could possibly destroy areas at each site that have self revegetated.

Because both sites are presently out of compliance, it is recommended that Lone Star (1) amend the present permits to include the additional acreage indicated by the GPS survey; and (2) update the existing bonds to the escalated amount, before the Division supports Lone Star's application to extend the period of suspension for these two mines.

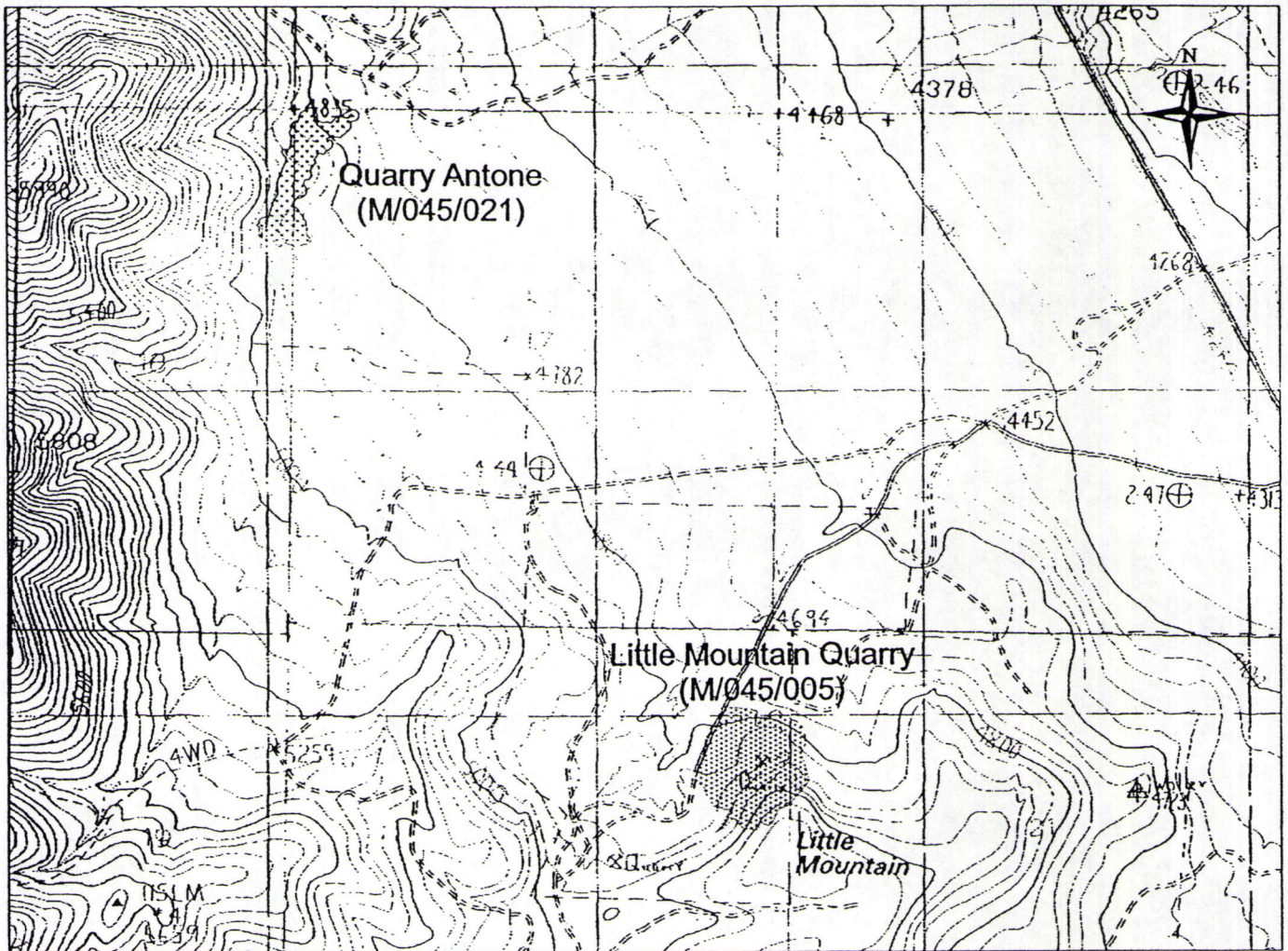
jb

Cc: Harry Phillip, Lone Star Industries  
Mike Malmquist, Parsons, Behle & Latimer

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# Lone Star Industries Tooele County Quarries

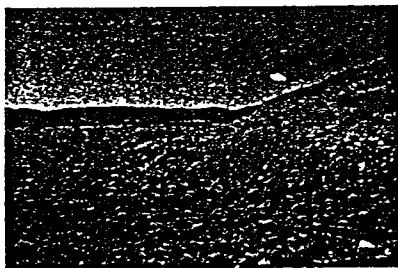




# QUARRY ANTONE



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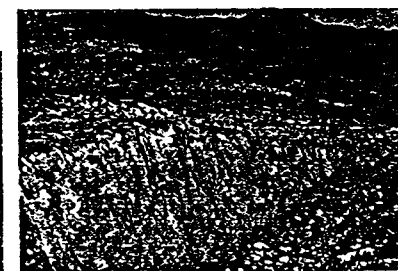
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*LITTLE MOUNTAIN QUARRY*



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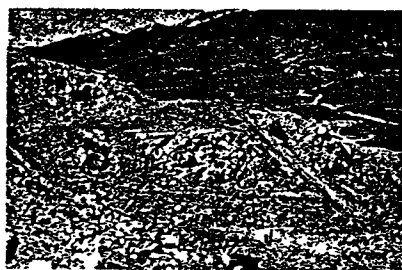
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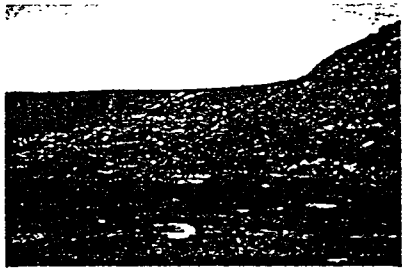
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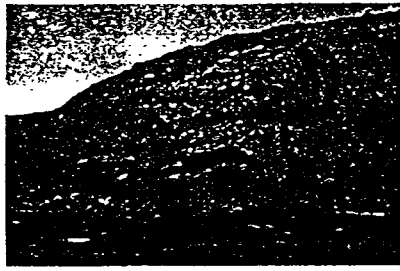
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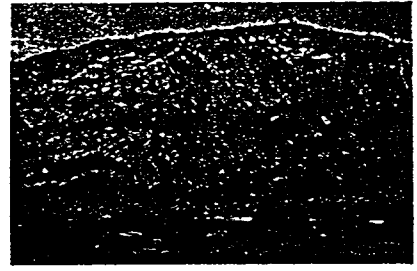
*LITTLE MOUNTAIN QUARRY*



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P0002728.JPG



P0002729.JPG



P0002730.JPG



P0002715.JPG



**RECLAMATION SURETY ESTIMATE**

Lone Star Industries, Inc

Quarry Antone

M/045/021

Prepared by Utah State Division of Oil, Gas &amp; Mining

last revision

04/02/02

filename M045-021.WB2

page "estimate D7"

Tooele County

-This bond calculated using unit and labor costs furnished by JBR Consultants, Inc.

**Note: actual unit costs may vary according to site conditions** last unit cost update 2-Aug-00

-Amount of disturbed area which will receive reclamation treatments = 11.65 acres

-Estimated total disturbed area for this mine = 11.65 acres

Activity	Quantity	Units	\$/unit	\$	Note
Safety gates, signs, etc. (mtls & installation)	0	sum	200	0	
Dozer	40	hours	197.71	7908.4	
Cat 950 Loader	40	hours	146.48	5859	
14G Grader	40	hours	168.35	6734	
Regrading facilities areas (1 ft depth)	0	acre	502	0	
Revegetation	13.3	acre	365	4855	
Safety & Fencing	2500	lf	3.08	7700	
Seed & Fertilizer	13.3	acres	210	2793	
Post Mining Monitoring	1	lump sum	3600	3600	
Equipment mobilization	1	equip	1000	1000	
Reclamation supervision	4	days	386	1544	
		Subtotal		39449	
10% Contingency				3945	
		Subtotal		43394	
Escalate for 5 years at 2.82% per year				6474	
		Total		49868	

Rounded surety amount in year 2007 \$

49900

Average cost per disturber acre =

4280



# RECLAMATION SURETY ESTIMATE

Lone Star, Inc  
 Little Mountain Quarry  
 M/045/005

last revision  
 filename M045-005.WB2  
 Tooele County

04/01/02  
 page "estimate D7"

Prepared by Utah State Division of Oil, Gas & Mining

-This bond calculated using unit and labor costs furnished by JBR Environmental Consultants, Inc.

Note: actual unit costs may vary according to site conditions last unit cost update 2-Aug-00

-Amount of disturbed area which will receive reclamation treatments = 23.69 acres

-Estimated total disturbed area for this mine = 23.69 acres

Activity	Quantity	Units	\$/unit	\$	Note
Safety gates, signs, etc. (mtls & installation)	0	sum	200	0	
Clean-up & removal of structures	40	hours	344	13768	
Backfill, grading, recontouring	24	hours	366	8786	
Topsoil redistribution	8	hours	147	1172	
Safety & fencing	4500	lf	3.08	13860	
Revegetation	20	acres	365	7300	
Broadcast seeding & fertilizer	20	acres	210	4200	
Post mining monitoring	1	lump sum	3600	3600	
Equipment mobilization	1	equip	1000	1000	
Reclamation supervision	4	days	386	1544	
		Subtotal		55230	
10% Contingency				5523	
		Subtotal		60753	
Escalate for 5 years at 2.82% per year				9063	
		Total		69817	
Rounded surety amount in year 2007 \$				69800	
Average cost per disturber acre =				2947	





# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

1594 West North Temple, Suite 1210

PO Box 145801

Salt Lake City, Utah 84114-5801

(801) 538-5340 telephone

(801) 359-3940 fax

(801) 538-7223 TTY

[www.nr.utah.gov](http://www.nr.utah.gov)

Michael O. Leavitt  
Governor

Robert L. Morgan  
Executive Director

Lowell P. Braxton  
Division Director

June 24, 2002

Lone Star Industries Inc.  
Mr. Harry Phillip  
10401 North Meridan Street, Suite 400  
Indianapolis, Indiana 46290-1090

Re: Request for 5-year Permit Term Extension - Continued Suspension of Mining Operations, Lone Star Industries Inc., Quarry Antone and Little Mountain Quarry, M/045/005 & M/045/021, Tooele County, Utah

Dear Mr. Phillip:

The Division has completed its assessment of your March 18, 2002, letter and request for a 5-year permit term extension beyond the current 10-year regulatory limit for a continued suspension of mining operations for the Quarry Antone and Little Mountain mining operations. After considerable review and consultation we have made the following preliminary findings concerning your request:

1. Pursuant to Rule 647-4-117.4, when a mine remains inactive or suspended for a time period that exceeds 10 years, the Division will require reclamation of the disturbances, unless the operator seeks an extension from the Board of Oil, Gas and Mining prior to the expiration of the 10-yr period showing good cause for a longer suspension period. Accordingly, Lone Star Industries is hereby directed to submit a formal Request for Agency Action seeking an extension from the Board of Oil, Gas and Mining. This matter will be heard at the next month's scheduled hearing following our receipt of your formal request.
2. Recent GPS survey information generated by the Division for each site indicates that the current surface disturbance is 11.65 acres and 23.29 acres respectively, for the Quarry Antone and Little Mountain Quarry. The sites were originally approved and bonded for 8.0 acres and 20.0 acres respectively. The Division has received and accepted updated reclamation bond estimates for both sites (enclosed). Lone Star Industries is hereby directed to provide the Division with the following escalated surety bond amounts (\$49,900 for Quarry Antone and \$69,800 for the Little Mountain Quarry).
3. The enclosed field inspection memos outline the Division's assessment of the current conditions at both sites. The Division has made a preliminary finding regarding site stability



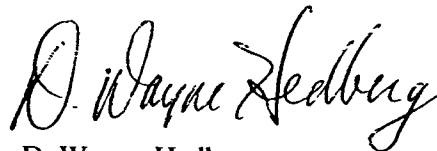
Page 2  
Harry Phillip  
M/045/005 & M/045/021  
June 24, 2002

and the adequacy of current vegetation cover based upon our initial March 27, 2002 field inspection and a subsequent inspection on June 4, 2002. Please see the inspection memos that outline the current conditions of each site. You may want to reference or include some of this information as part of your formal Request for Agency Action.

When you submit your formal request to the Division and Board, please include any and all information that you feel justifies and supports your 5-year extension request beyond the standard 10-year timeframe. We recently received two bond cancellation notices from American International Companies for surety bond # 95-079 and 95-080. The effective cancellation date is September 13, 2002. Copies are enclosed for your reference. It is our understanding that you are presently working on obtaining the updated replacement reclamation sureties for both project areas.

Thank you for your help and patience in finalizing these permitting actions. We look forward to the receipt of your formal Agency Action request and the replacement sureties at your earliest convenience. If I can provide you with further assistance in this regard, please call me at (801) 538-5286.

Sincerely,



D. Wayne Hedberg  
Permit Supervisor  
Minerals Regulatory Program

jb

Enclosures: 3/27/02 & 6/4/02 field inspections w/GPS maps & site photos

Revised surety bond cost estimates

Example of Request for Agency Action

Bond cancellation notices

cc: Mike Malmquist, Parsons, Behle, and Latimer w/enclosures

201 So. Main St., Suite 1800, SLC, Utah 84111-2218

O:\M045-Tooele\M0450005-Little Mountain Quarry\final\M0250005approval-ltr.doc





A PROFESSIONAL  
LAW CORPORATION

201 South Main Street  
Suite 1800  
Salt Lake City, Utah  
84111-2218  
Post Office Box 45898  
Salt Lake City, Utah  
84145-0898  
Telephone 801 532-1234  
Facsimile 801 536-6111  
E-Mail: pbl@pblutah.com

Michael J. Malmquist

Direct Dial  
(801) 536 6658  
E-Mail  
MMalmquist@pblutah.com

August 21, 2002

**BY HAND DELIVERY**

D. Wayne Hedberg  
Permit Supervisor  
Mineral Regulatory Program  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P. O. Box 145801  
Salt Lake City, Utah 84114-5801

**Re: Replacement Bond (SAFECO Bond No. for Little Mountain  
Quarry (M/045/005)**

Dear Wayne:

On behalf of Utah Portland Quarries, Inc. ("Utah Portland"), enclosed are the executed originals of the replacement reclamation bond and reclamation contract for the above-referenced mine. The bond and contract are in the amount of \$69,800 (escalated) for the reclamation of approximately 23.3 acres of permitted disturbance. The bond is issued by SAFECO Insurance Company of America (Bond No. and replaces National Union Fire Insurance Company Bond No.

The bond amount of \$69,800 is as specified in the June 24, 2002 letter from the Division of Oil, Gas and Mining ("Division") to Lone Star Industries, Inc. (Utah Portland's parent corporation), which amount was mutually agreed upon by the Division and Utah Portland after a field inspection and an update and reassessment of estimated reclamation costs. The disturbed acreage figure of 23.3 acres is based on the Division's August 13, 2002 approval of an insignificant amendment to the reclamation permit.

SAFECO Insurance Company of America, the bond surety, is licensed in Utah, is listed as an acceptable surety company in the most recent version of the Treasury Department's Circular 570,<sup>1</sup> and has an "A" rating from A.M. Best's Key Rating Guide,<sup>2</sup> as required by Utah Administrative Code R647-4-113 (4.11).

<sup>1</sup> See <http://www.fms.treas.gov/c570/c570.html>

<sup>2</sup> See <http://www3.ambest.com/Frames/Frameserver.asp?site=ratings&Tab=2&RefNum=2448&AltNum=0&AltSrc=0&BR=&URATINGID=539797>

D. Wayne Hedberg  
August 21, 2002  
Page Two

Assuming that the replacement bond and reclamation contract are acceptable and are approved by the Division, please send Utah Portland and me a copy of the Division's signature pages for inclusion in our files. If you have any questions, please give me a call at (801) 536-6658.

Sincerely yours,

Parsons Behle & Latimer



Michael J. Malmquist

MJM/cvd

Enclosures

cc: Gregory J. Morical  
Harry M. Philip





# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor

Robert L. Morgan  
Executive Director

Lowell P. Braxton  
Division Director

1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801  
(801) 538-5340 telephone  
(801) 359-3940 fax  
(801) 538-7223 TTY  
[www.nr.utah.gov](http://www.nr.utah.gov)

September 10, 2002

Gregory J. Morical  
Assistant General Counsel  
Lone Star Industries Inc.  
10401 North Meridan Street, Suite 400  
Indianapolis, Indiana 46290-1090

Re: Formal Approval of Replacement Reclamation Sureties, Lone Star Industries, Inc. (d.b.a., Utah Portland Quarries, Inc.), Little Mountain Quarry, M/045/005 & Quarry Antone, M/045/021, Tooele County, Utah

Dear Mr. Morical:

On September 9, 2002, the Director of the Division of Oil, Gas and Mining formally approved the form and amount of replacement reclamation sureties for Utah Portland Quarries, Inc. ("Utah Portland") Little Mountain and Quarry Antone limestone mines. Replacement reclamation surety bonds issued by Safeco Insurance Company of America in the amounts of \$69,800 (Little Mountain Quarry) and \$49,900 (Quarry Antone) have been received. The updated sureties were requested as part of the Division's standard 5-year bond review and escalation process. ***The Division hereby grants its final approval of your replacement reclamation sureties for the Little Mountain and Quarry Antone mining projects.***

Copies of the fully signed and executed replacement Reclamation Contracts and surety bond forms were hand delivered to your local courier on September 9, 2002. Enclosed are the original Reclamation Contracts with original sureties issued by National Union Fire Insurance Company to be cancelled effective September 13, 2002.

***The Division also hereby acknowledges and concurs with the observation made by Mr. Malmquist in his August 21, 2002 transmittal letter concerning an error in our June 24, 2002 correspondence. The approved disturbed acreage for the Quarry Antone project is 13.3 acres, not 8 acres as we previously indicated. The disturbed area is consequently in compliance with the approved permit.***

**Utah!**  
Where ideas connect

1942

1942



Page 2  
Gregory J. Morical  
September 10, 2002

Thank you for your help in finalizing this permitting action and keeping the reclamation sureties for both projects current. Please call me if you have any questions regarding this letter.

Sincerely,



D. Wayne Hedberg  
Permit Supervisor  
Minerals Regulatory Program

jb

Enclosure: 2 older original RC's & surety bonds

cc: Michael Malmquist, Parsons, Behle & Latimer, w/oEncl

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# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor

Robert L. Morgan  
Executive Director

Lowell P. Braxton  
Division Director

1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801  
(801) 538-5340 telephone  
(801) 359-3940 fax  
(801) 538-7223 TTY  
www.nr.utah.gov

September 3, 2002

TO: Lowell P. Braxton, Director *Lowell*

THRU: Mary Ann Wright, Associate Director

THRU: Wayne Hedberg, Permit Supervisor *Wayne Hedberg*

FROM: Doug Jensen, Senior Reclamation Specialist *Doug Jensen*

RE: Request for Approval of Form and Amount of Replacement Reclamation Surety, Utah Portland Quarries (Lone Pine Industries), Little Mountain Quarry (M/045/005), Quarry Antone (M/045/021), Tooele County, Utah

In April, 2001, the Division informed Utah Portland Quarries that their mine sites had reportedly been inactive for a ten-year period, and that reclamation could be required. They were informed that if they wanted to extend their period of suspension they would have to update their sureties, and apply to the Board for an extension request. In July, 2001, the Division received a request for a copy of the Little Mountain Quarry Antone files. We were informed that the corporate headquarters had moved from Connecticut to Indianapolis and with a change in personnel they were unable to locate their files.

The new management requested a meeting be held in December, and also requested that we extend their period of suspension for another five-years because they hoped to reactivate their permits. The Division subsequently escalated the existing bonds to bring them to current year dollars and escalated them five years into the future. In reviewing the updated information to perform the escalation, it was discovered that the Little Mountain Quarry had exceeded the approved acreage. Therefore, the operator supplied the Division with an amendment for that mine site to include the increased acreage. The Division finalized the review of the amendment and tentative approval was issued on August 13, 2002, contingent upon receipt of the updated sureties.

In June 2001, we received information that the existing surety bonds for the two sites, issued by National Union Fire Company, were going to expire on September 13, 2002. On August 21, 2002, the operator provided replacement Reclamation Contracts and a \$69,800 revised surety bond for the Little Mountain Quarry and a \$49,900 escalated surety bond for Quarry Antone, issued by Safeco Insurance Company of America. Safeco is listed on the federal register of acceptable bonding companies and has an "A" rating.

If you are in agreement with the acceptance of the replacement and updated reclamation sureties please sign and date the documents. We will then issue final Division approval for the Little Mountain Quarry amendment, and the escalated surety for Quarry Antone. Thank you for your consideration of this request.

jb

Enclosure: 2-MR-RC's & 2 sureties

O:\M045-Tooele\M0450005-Little Mountain Quarry\Draft\Dir-sign-mem doc

**Utah!**

Where ideas connect

*Agree*  
*LPB 9/6/02*





A PROFESSIONAL  
LAW CORPORATION

201 South Main Street  
Suite 1800  
Salt Lake City, Utah  
84111-2218  
Post Office Box 45898  
Salt Lake City, Utah  
84145-0898  
Telephone 801 532-1234  
Facsimile 801 536-6111  
E-Mail: pbl@pblutah.com

Michael J. Malmquist

Direct Dial  
(801) 536-6658  
E-Mail  
MMalmquist@pblutah.com

August 21, 2002

**BY HAND DELIVERY**

D. Wayne Hedberg  
Permit Supervisor  
Mineral Regulatory Program  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P. O. Box 145801  
Salt Lake City, Utah 84114-5801

**RECEIVED**

AUG 21 2002

DIVISION OF  
OIL, GAS AND MINING

Re: Replacement Bond (SAFECO Bond No. for Quarry Antone  
(M/045/021)

Dear Wayne:

On behalf of Utah Portland Quarries, Inc. ("Utah Portland"), enclosed are the executed originals of the replacement reclamation bond and reclamation contract for the above-referenced mine. The bond and contract are in the amount of \$49,900 (escalated) for the reclamation of approximately 13.3 acres of permitted disturbance. The bond is issued by SAFECO Insurance Company of American (Bond No. \_\_\_\_\_) and replaces National Union Fire Insurance Company Bond No. \_\_\_\_\_.

The bond amount of \$49,900 is as specified in the June 24, 2002 letter from the Division of Oil, Gas and Mining ("Division") to Lone Star Industries, Inc. (Utah Portland's parent corporation), which amount was mutually agreed upon by the Division and Utah Portland after a field inspection and an update and reassessment of estimated reclamation costs. The disturbed acreage figure of 13.3 acres was taken from the approved Notice of Intention and, as we discussed by phone, is the correct figure for permitted disturbance at the mine, whereas the figure of 8.0 acres of permitted disturbance in the Division's June 24<sup>th</sup> was in error.


D. Wayne Hedberg  
August 21, 2002  
Page Two

SAFECO Insurance Company of America, the bond surety, is licensed in Utah, is listed as an acceptable surety company in the most recent version of the Treasury Department's Circular 570,<sup>1</sup> and has an "A" rating from A.M. Best's Key Rating Guide,<sup>2</sup> as required by Utah Administrative Code R647-4-113 (4.11).

Assuming that the replacement bond and reclamation contract are acceptable and are approved by the Division, please send Utah Portland and me a copy of the Division's signature pages for inclusion in our files. If you have any questions, please give me a call at (801) 536-6658.

Sincerely yours,

Parsons Behle & Latimer



Michael J. Malmquist

MJM/cvd  
Enclosures

cc: Gregory J. Morical  
Harry M. Philip

RECEIVED

AUG 21 2002

DIVISION OF  
OIL, GAS AND MINING

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<sup>1</sup> See <http://www.fms.treas.gov/c570/c570.html>

<sup>2</sup> See <http://www3.ambest.com/Frames/Frameserver.asp?site=ratings&Tab=2&RefNum=2448&AltNum=0&AltSrc=0&BR=&URATINGID=539797>



FORM MR-RC  
Revised June 28, 2002  
RECLAMATION CONTRACT

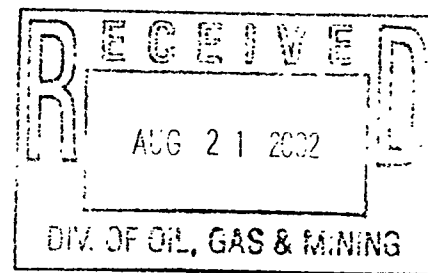
File Number M/045/021

Effective Date \_\_\_\_\_

Other Agency File Number \_\_\_\_\_

**STATE OF UTAH**  
**DEPARTMENT OF NATURAL RESOURCES**  
**DIVISION of OIL, GAS and MINING**  
1594 West North Temple Suite 1210  
Box 145801  
Salt Lake City, Utah 84114-5801  
Phone: (801) 538-5291  
Fax: (801) 359-3940

**RECLAMATION CONTRACT**  
---ooOoo---



For the purpose of this RECLAMATION CONTRACT the terms below are defined as follows:

"NOTICE OF INTENTION" (NOI): (File No.) M/045/021  
(Mineral Mined) Shale

"MINE LOCATION":  
(Name of Mine) Quarry Antone  
(Description) Tooele County, Utah  
\_\_\_\_\_  
\_\_\_\_\_

"DISTURBED AREA":  
(Disturbed Acres) 13.3 acres  
(Legal Description) (refer to Attachment "A")

"OPERATOR":  
(Company or Name) Utah Portland Quarries, Inc.  
(Address) 10401 North Meridian Street, Suite 400  
Indianapolis, Indiana 46290-1090  
\_\_\_\_\_  
(Phone) (317) 706-3300

"OPERATOR'S REGISTERED AGENT":

Name)  
(Address)

(Phone)

CT Corporation  
208 S. LaSalle 8<sup>th</sup> Floor  
Chicago, IL 60604  
(800) 475-1212

"OPERATOR'S OFFICER(S)":

Michael B. Clarke, President  
William A. Humenuk, V.P. & Secretary  
Harry M. Philip, Vice President  
John L. Quinlan, Vice President & Treasurer

SURETY":

(Form of Surety - Attachment B)

Surety Bond

"SURETY COMPANY":

(Name, Policy or Acct. No.)

SAFECO INSURANCE COMPANY OF  
AMERICA -- Bond No.

"SURETY AMOUNT":

(Escalated Dollars)

\$49,900

"ESCALATION YEAR":

2007

"STATE":

"DIVISION":

"BOARD":

State of Utah

Division of Oil, Gas and Mining

Board of Oil, Gas and Mining

ATTACHMENTS:

A "DISTURBED AREA":

B "SURETY":

This Reclamation Contract (hereinafter referred to as "Contract") is entered into between Utah Portland Quarries, Inc. the "Operator" and the Utah State Division of Oil, Gas and Mining ("Division").

WHEREAS, Operator desires to conduct mining operations under Notice of Intention (NOI) File No. M/045/021 which has been approved by the Utah State Division of Oil, Gas and Mining under the Utah Mined Land Reclamation Act, Sections 40-8-1 et seq., Utah Code Annotated, (1953, as amended) (hereinafter referred to as "Act") and implementing rules; and

WHEREAS, Operator is obligated to reclaim that area described as the Disturbed Area as set forth and in accordance with Operator's approved Reclamation Plan, and Operator is obligated to provide surety in form and amount approved by the Division, to assure reclamation of the Disturbed Area.



NOW, THEREFORE, the Division and the Operator agree as follows:

1. Operator agrees to conduct reclamation of the Disturbed Area in accordance with the Act and implementing regulations, the original Notice of Intention dated August 27, 1987, and the original Reclamation Plan dated July 3, 1987. The Notice of Intention as amended, and the Reclamation Plan, as amended, are incorporated by this reference and made a part hereof.
2. Concurrent with the execution hereof, Operator has provided surety to assure that reclamation is conducted, in form and amount acceptable to the Division. Such surety as evidenced by the Surety Contract is in the form of the surety attached hereto as Attachment B and made a part hereof. The Surety Contract shall remain in full force and effect according to its terms unless modified by the Division in writing. If the Surety Contract expressly provides for cancellation, then, within 60 days following the Division's receipt of notice that the Surety Company intends to cancel the Surety Contract, the Operator shall provide a replacement Surety Contract in a form and amount reasonably acceptable to the Division. If the Operator fails to provide an acceptable replacement Surety Contract, the Division may order the Operator to cease further mining activities and to begin immediate reclamation of the Disturbed Area.
3. Operator agrees to pay legally determined public liability and property damage claims resulting from mining to the extent provided in Section 40-8-7(1)(e) of the Act.
4. Operator agrees to perform all duties and fulfill all reclamation requirements applicable to the mine as required by the Act and implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended.
5. The Operator's liability under this Contract shall continue in full force and effect until the Division certifies that the Operator has reclaimed the Disturbed Area in accordance with the Act and implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended.
6. If reclamation of discrete sections of the Disturbed Area is completed to the satisfaction of the Division, and the Division finds that such sections are severable from the remainder of the Disturbed Area, Operator may request the Division to certify that Operator has reclaimed such discrete sections of the Disturbed Area in accordance with the Act and Implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended. If the Division makes such certification, Operator may make request to the Division that the aggregate face amount of the Surety Contract provided pursuant to paragraph 2 be reduced to an amount necessary to provide for completion of the remaining reclamation. The Division shall hear Operator's request for such reduction in accordance with the Board's Procedural Rules concerning requests for Agency Action.



7. Operator agrees to indemnify and hold harmless the State, Board and the Division from any claim, demand, liability, cost, charge, suit, or obligation of whatsoever nature arising from the failure of Operator or Operator's agents and employees, or contractors to comply with this Contract.
8. Operator may, at any time, submit a request to the Division to substitute surety. The Division may approve such substitution if the substitute surety meets the requirements of the Act and the implementing rules.
9. This Contract shall be governed and construed in accordance with the laws of the State of Utah.
10. If Operator shall default in the performance of its obligations hereunder, Operator agrees to pay all costs and expenses, including reasonable attorney's fees and costs incurred by the Division and/or the Board in the enforcement of this Contract.
11. Any breach that the Division finds to be material of the provisions of this Contract by Operator may, at the discretion of the Division, result in an order to cease mining operations. After opportunity for notice and hearing, the Board of Oil, Gas and Mining may enter an order to revoke the Notice of Intention, order reclamation, or order forfeiture of the Surety Contract, or take such other action as is authorized by law.
12. In the event of forfeiture of the Surety Contract, Operator shall be liable for any additional costs in excess of the surety amount which are required to comply with this Contract. Any excess monies resulting from forfeiture of the Surety Contract, upon completion of reclamation and compliance with this Contract, shall be returned to the rightful claimant.
13. This Contract including the Notice of Intention, as amended and the Reclamation Plan, as amended, represents the entire agreement of the parties involved, and any modification must be approved in writing by the parties involved.
14. Each signatory below represents that he/she is authorized to execute this Contract on behalf of the named party.



OPERATOR:

Utah Portland Quarries, Inc.  
Operator Name

By Harry M. Philip  
Authorized Officer (Typed or Printed)

Vice President  
Authorized Officer - Position

[Signature] 8-16-02  
Officer's Signature Date

STATE OF Indiana )  
COUNTY OF Hamilton ) ss:

On the 16<sup>th</sup> day of August, 2002, Harry M. Philip  
personally appeared before me, who being by me duly sworn did say that he/she is the  
Vice President of Utah Portland Quarries, Inc. and duly  
acknowledged that said instrument was signed on behalf of said company by authority  
of its bylaws or a resolution of its board of directors and said  
Harry M. Philip duly acknowledged to me that said  
company executed the same.

[Signature]  
Notary Public  
Residing at in Hamilton County  
3-19-07  
My Commission Expires:

DIVISION OF OIL, GAS AND MINING:

By Lowell P Braxton  
Lowell P. Braxton, Director

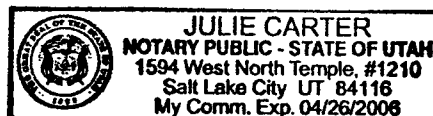
9/6/02  
Date

STATE OF Utah )  
COUNTY OF Salt Lake ) ss:

On the 6 day of September, 20 02 Lowell P. Braxton  
personally appeared before me, who being duly sworn did say that ~~he~~ she, the said  
Lowell P. Braxton is the Director of the Division of Oil, Gas and  
Mining, Department of Natural Resources, State of Utah, and ~~he~~ she duly acknowl-  
edged to me that ~~he~~ she executed the foregoing document by authority of law on behalf  
of the State of Utah.

Julie Carter  
Notary Public  
Residing at: Salt Lake

April 26, 2006  
My Commission Expires:





## ATTACHMENT "A"

Utah Portland Quarries, Inc.

Operator

Quarry Antone

Mine Name

M/045/021

Permit Number

Tooele

County, Utah

### LEGAL DESCRIPTION

*Include 1/4, 1/4, 1/4 sections, townships, ranges and any other descriptions that will legally determine where disturbed lands are located. Attach a topographic map of suitable scale (max. 1 inch = 500 feet; 1 inch = 200 feet or larger scale is preferred) showing township, range and sections and a clear outline of the disturbed area boundaries tied to this Reclamation Contract and surety.*

**The detailed legal description of lands to be disturbed includes portions of the following lands not to exceed 13.3 acres under the approved permit and surety, as reflected on the attached map labeled see below and dated see below:**

The permitted area is illustrated on the map titled "Portland Cement Quarries Inc., Quarry Antone, Tooele County, Utah. Map #1." The map is undated but carries a DOGM "Received" stamp of March 23, 1987. The map is one file with the Division.

The present disturbed area is shown on DOGM GPS map titled "Lone Star Industries, Inc. Quarry Antone" dated 8/13/02.

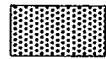
The legal description is portions of the:

NE 1/4 of the NE 1/4 of Section 18, Township 2 South, Range 6 West, and NW 1/4 of the NW 1/4 of Section 17, Township 2 South, Range 6 West, as more specifically illustrated in the above-referenced maps.

# Lone Star Industries, Inc.

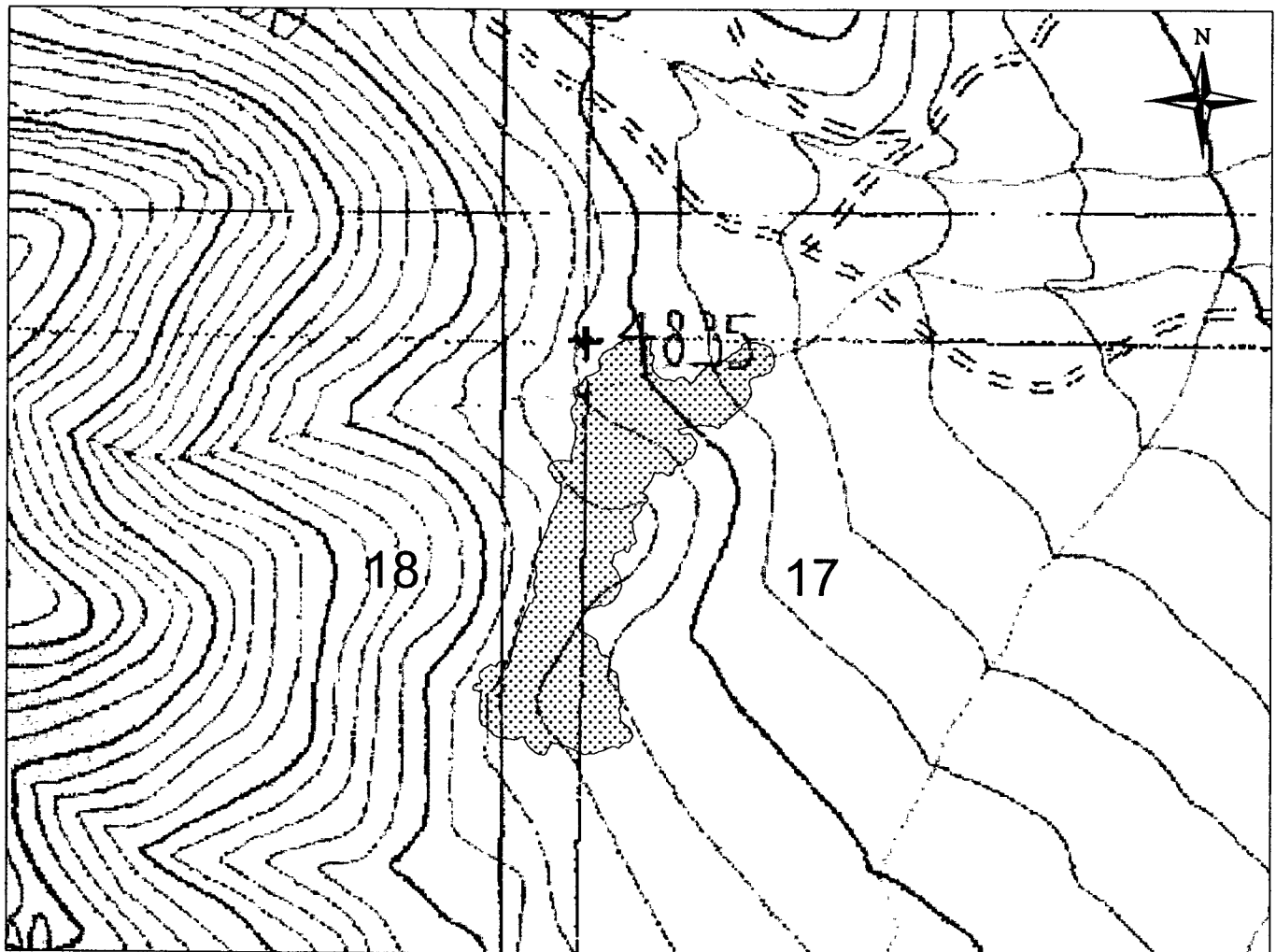
## Quarry Antone

M/045/021



Quarry Antone

W/2 of the NW/4 of Section 17 and the  
E/2 of the NE/4 of Section 18  
Township 2 South, Range 6 West, SLBM



Flux Quad

0 400 800 1200 1600 Feet



This map may not meet Division standards  
for accuracy and content. Different data  
sources and input scales may cause  
some misalignment of data layers.

Prepared 8/13/02 by DOGM

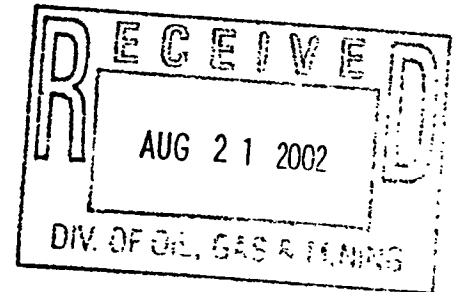


ATTACHMENT B

FORM MR-5  
January 19, 2000

Bond Number \_\_\_\_\_  
Permit Number M/045/021  
Mine Name Quarry Antone

STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
Division of Oil, Gas and Mining  
1594 West North Temple Suite 1210  
Box 145801  
Salt Lake City, Utah 84114-5801  
Telephone: (801) 538-5291  
Fax: (801) 359-3940



THE MINED LAND RECLAMATION ACT

SURETY BOND

\*\*\*\*\*

The undersigned Utah Portland Quarries, Inc., as Principal, and SAFECO INSURANCE COMPANY OF AMERICA, as Surety, hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, unto the State of Utah, Division of Oil, Gas and Mining (Division) in the penal sum of Forty Nine Thousand Nine Hundred dollars (\$ 49,900).

Principal has estimated in the Mining and Reclamation Plan approved by the Division on the 27th day of August 1987, 20 13.3 acres of land will be disturbed by mining operation in the State of Utah.

A description of the disturbed land is attached as "Attachment A" to the Reclamation Contract, of which this document is an integral part.

The condition of this obligation is that if the Division determines that Principal has satisfactorily reclaimed the disturbed lands in accordance with the approved Mining and Reclamation Plan and has faithfully performed all requirements of the Mined Land Reclamation Act, and complied with the Rules and Regulations adopted in accordance therewith, then this obligation shall be void; otherwise it shall remain in full force and effect.

If the Mining and Reclamation Plan provides for periodic partial reclamation of the disturbed lands, and if the lands are reclaimed in accordance with such Plan, Act and regulations, then Principal may apply for a reduction in the amount of this Surety Bond.

In the converse, if the Mining and Reclamation Plan provides for a gradual increase in the area disturbed or the extent of disturbance, then, the Division may require that the amount of this Surety Bond be increased, with the written approval of the Surety.

This bond may be canceled by Surety after ninety (90) days following receipt by the Division and Principal of written notice of such cancellation. Surety's liability shall then, at the

expiration of said ninety (90) days, cease and terminate except that Surety will remain fully liable for all reclamation obligations of the Principal incurred prior to the date of termination.

Principal and Surety and their successors and assigns agree to guarantee said obligation and to indemnify, defend, and hold harmless the Division from any and all expenses (including attorney fees) which the Division may sustain in the collection of sums due hereunder.

Surety will give prompt notice to Principal and to the Division of the filing of any petition or the commencement of any proceeding relating to the bankruptcy, insolvency, reorganization, or adjustment of the debts of Surety, or alleging any violation or regulatory requirements which could result in suspension or revocation of the Surety's license to do business.

IN WITNESS WHEREOF, the Principal and Surety hereunto set their signatures and seals as of the dates set forth below.

Utah Portland Quarries, Inc.  
Principal (Permittee)

JOHN L. QUINLAN  
By (Name typed):

CHIEF FINANCIAL OFFICER  
Title

John L. Quinlan  
Signature

8/16/02  
Date

**Surety Company**

SAFECO INSURANCE COMPANY OF AMERICA 1200 Macarthur Blvd.  
Surety Company Name Street Address

Richard Guarini Mahwah, NJ 07430  
Surety Company Officer City, State, Zip

Attorney-in-fact 201-327-7606  
Title/Position Phone Number

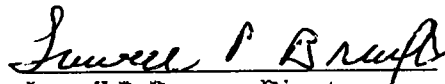
Richard Guarini  
Signature

August 09, 2002  
Date



SO AGREED this 6th day of September, 2002.

AND APPROVED AS TO FORM AND AMOUNT OF SURETY:



Lowell P. Braxton, Director  
Utah State Division of Oil, Gas and Mining

\*NOTE: Where one signs by virtue of Power of Attorney for a Surety, such Power of Attorney must be filed with this bond. If the Operator is a corporation, the bond shall be executed by its duly authorized officer.

### AFFIDAVIT OF QUALIFICATION

On the 09th day of August, 20 02, Richard Guarini  
personally appeared before me, who being by me duly sworn did say that he/she, the said  
Safeco Insurance Company of America is the Attorney-in-fact of  
\_\_\_\_\_ and duly acknowledged that said instrument was  
signed on behalf of said company by authority of its bylaws or a resolution of its board of  
directors and said Richard Guarini duly acknowledged to me that said  
company executed the same, and that he/she is duly authorized to execute and deliver the  
foregoing obligations; that said Surety is authorized to execute the same and has complied in all  
respects with the laws of Utah in reference to becoming sole surety upon bonds, undertaking and  
obligations.

Signed: Gary Marmsey  
Surety Officer

Title: Attorney-in-fact

STATE OF New York )  
 ) ss:  
COUNTY OF Nassau )

Subscribed and sworn to before me this 09th day of August, 20 02.

\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_

My Commission Expires:

\_\_\_\_\_, 20 02



# ACKNOWLEDGEMENT OF PRINCIPAL

## INDIVIDUAL - PRINCIPAL

STATE OF  
COUNTY OF

{ SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned personally came and appeared \_\_\_\_\_ to me personally known and known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that \_\_\_\_\_ executed the same.

NOTARY PUBLIC STAMP

NOTARY PUBLIC

## CORPORATION - PRINCIPAL

STATE OF INDIANA  
COUNTY OF MARION

{ SS:

On this 16TH day of AUGUST, 2002, before me came JOHN L. QUINLAN to me known, who, being by me duly sworn, did depose and say that he resides at CARMEL INDIANA that he is CHIEF FINANCIAL OFFICER of UTAH PORTLAND QUARRIES, INC. the corporation described in and which executed the foregoing instrument as principal; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

NOTARY PUBLIC STAMP

*Donella J. Kantner*

NOTARY PUBLIC

Comm. EXP 11/6/07

## PARTNERSHIP - PRINCIPAL

STATE OF  
COUNTY OF

{ SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_ to me personally known, and known to me to be a member of the firm of \_\_\_\_\_ and he duly acknowledged to me that he executed the same for the uses and purposes therein mentioned.

NOTARY PUBLIC STAMP

NOTARY PUBLIC



POWER  
OF ATTORNEY

SAFECO INSURANCE COMPANY OF AMERICA  
GENERAL INSURANCE COMPANY OF AMERICA  
HOME OFFICE: SAFECO PLAZA  
SEATTLE, WASHINGTON 98185

No. \_\_\_\_\_

KNOW ALL BY THESE PRESENTS:

That SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA, each a Washington corporation, does each hereby appoint  
\*\*\*CRAIG H. TREIBER; JOHN H. TREIBER; RICHARD GUARINI; GARY MORRISSEY; MILENA LANGERT; JEAN C. SPEIRS; ROBERT G. TYNAN; Garden City, New York\*\*\*\*\*

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 29 day of September, 19 98

CERTIFICATE

Extract from the By-Laws of SAFECO INSURANCE COMPANY OF AMERICA  
and of GENERAL INSURANCE COMPANY OF AMERICA:

Article V, Section 13. - FIDELITY AND SURETY BONDS . . . the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business . . . On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of SAFECO INSURANCE COMPANY OF AMERICA  
and of GENERAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
- (ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
- (iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, R. A. Pierson, Secretary of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 09th day of August, 19 2000





SAFECO INSURANCE COMPANY OF AMERICA  
FINANCIAL STATEMENT — DECEMBER 31, 2001

Assets		Liabilities	
Cash and Bank Deposits .....	\$ 28,779,143	Unearned Premiums .....	\$ 573,965,389
*Bonds — U.S. Government .....	172,579,475	Reserve for Claims and Claims Expense .....	1,520,553,379
*Other Bonds .....	1,686,877,756	Funds Held Under Reinsurance Treaties .....	551,241
*Stocks .....	595,048,675	Reserve for Dividends to Policyholders .....	6,684,466
Real Estate .....	35,076,733	Additional Statutory Reserve .....	—
Agents' Balances or Uncollected Premiums .....	286,362,995	Reserve for Commissions, Taxes and	
Accrued Interest and Rents .....	32,961,439	Other Liabilities .....	536,160,641
Other Admitted Assets .....	<u>557,153,050</u>	<b>Total .....</b>	<b>\$2,637,915,116</b>
		Capital Stock .....	\$ 5,000,000
		Paid in Surplus .....	152,306,484
		Unassigned Surplus .....	<u>599,617,666</u>
		<b>Surplus to Policyholders .....</b>	<b>756,924,150</b>
<b>Total Admitted Assets .....</b>	<b><u>\$3,394,839,266</u></b>	<b>Total Liabilities and Surplus .....</b>	<b><u>\$3,394,839,266</u></b>



\* Bonds are stated at amortized or investment value; Stocks at Association Market Values. Securities carried at \$121,297,719 are deposited as required by law.

I, MICHAEL C. PETERS, president of SAFECO Insurance Company of America, do hereby certify that the foregoing is a true, and correct statement of the Assets and Liabilities of said Corporation, as of December 31, 2001, to the best of my knowledge and belief.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Corporation at Seattle, Washington, this 1st day of March, 2002.

President

---

**UTAH**  
**ADMINISTRATIVE CODE**  
**1987-1988**

---

**VOLUME 3**

**The Complete Administrative Rules  
of the State of Utah**

Effective as of July 1, 1987

Compiled by  
**The Utah Division of Administrative Rules**  
**Department of Administrative Services**

Norman H. Bangerter, Governor

Dr. William S. Callaghan  
Director and General Editor

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# **VOLUME 3**

## **TABLE OF CONTENTS**

### **R471-530. Industrial Commission of Utah**

R490. Utah Occupational Safety and  
Health [UOSH]  
[Continued from Volume 2]

### **R531-R560. Insurance Department**

### **R561-600. Office of the Lieutenant Governor [No Rules]**

### **R601-660. Department of Natural Resources**

R602. Energy Office  
R606. Utah Geological and Mineral  
Survey [UGMS]  
R608. Wildlife Resources  
R613-R619. Oil, Gas and Mining  
[OGM]  
R613. Non Coal  
R614. Coal  
R615. Oil and Gas  
R618. Abandoned Mine  
Reclamation  
R619. Procedural - Board  
R620. Parks and Recreation  
R625. Water Rights  
R630. Water Resources  
R632. Lands and Forestry

### **R661-R670. Personnel Review Board**

### **R671-690. Office of Planning and Budget**

### **R691-749. Department of Public Safety**

R700. Administration  
R707. Fire Marshall  
R712. Drivers License Services  
R715. Peace Officer Standards and  
Training [P.O.S.T.]  
R725. Law Enforcement Services  
R726. Criminal Identification  
R732. Regulatory Licensing  
R735. Highway Patrol

### **R750-760. Public Service Commission**

### **R761-770. Board of Regents**

### **R771-800. State Retirement Office [No Rules]**

entire state when they find that such action is necessary to effectuate proper management, conservation and control.

1-4-2 Close or open areas to fishing, hunting, trapping, or other harvest; establish refuges and preserves; prescribe the means by which harvest may be accomplished; and control the transportation and storage of all wildlife or parts of the same, within the boundaries of the State of Utah and the shipment or transportation into or out of the state.

1-4-3 Establish or change bag limits and possession limits.

1-4-4 Determine the hours of the day during which fishing, hunting, trapping, or other harvest may take place.

1-4-5 Establish the use, forms and fees of permits, tags and certificates of registration.

1-4-6 Prescribe safety measures and establish other regulations as may be deemed necessary in the interest of wildlife, conservation and the safety and welfare of users, landowners and the public.

#### R608-1-5.

Proclamations of the respective boards shall be issued in accordance with the following procedure:

1-5-1 The Division of Wildlife Resources is empowered to investigate and determine the facts relative to the wildlife resources of the state. Upon a determination of these facts, the division shall draft proclamations for consideration by the respective boards.

1-5-2 Prior to enactment of a proposed proclamation, the Wildlife Board in accordance with Section 23-14-4 of the Wildlife Resources Code of Utah shall review the proposed proclamation at one or more public meetings.

1-5-3 Prior to enactment of a proposed big game hunting proclamation the Board of Big Game Control in accordance with Section 23-14-6 of the Wildlife Resources Code of Utah shall hold at least one public meeting in each wildlife district of the state.

1-5-4 Prior to public meetings of the respective boards notice of such meetings shall be printed in the Utah State Bulletin of the Office of Administrative Rules.

1-5-5 Proclamations shall be officially enacted by a majority vote of the respective boards.

1-5-6 Any proclamation of the Wildlife Board, signed by the Chairman and Secretary, or the Board of Big Game Control, signed by the Chairman, filed in the office of the Division of Wildlife Resources and published in accordance with 1-5-7 below, shall be deemed to have been duly adopted and promulgated.

1-5-7 Officially enacted proclamations shall be printed and distributed to the public through wildlife license agents and offices of the Division of Wildlife Resources.

#### R608-1-6.

Proclamations enacted under the provisions of this rule shall have the full force and effect of law.

1987 23-14-3, 23-14-4, 23-14-6, 23-14-18 - 20, 23-15-

2

## R613-619. Oil, Gas and Mining

R613. Noncoal

R614. Coal

R615. Oil and Gas

R618. Abandoned Mine Reclamation

### R619. Procedural - Board

### R613. Noncoal

#### R613-1M. Rules Applicable to the Reclamation of Lands Mined for Minerals in Utah

### R613-1M. Rules Applicable to the Reclamation of Lands Mined for Minerals in Utah

#### R613-1M-1. General Rules

#### R613-1M-2. Definitions

#### R613-1M-3. Notice of Intention to Commence Mining Operations

#### R613-1M-4. Notice to Public and Interested Parties (Except as Provided in Section 40-8-23 of the Mined Land Reclamation Act)

#### R613-1M-5. Surety Guarantee

#### R613-1M-6. Plans and Maps

#### R613-1M-7. Notification of Suspension of Operations

#### R613-1M-8. Reports

#### R613-1M-9. Practice and Procedure

#### R613-1M-10. Reclamation Standards

#### R613-1M-1. General Rules

The following have been adopted by the Division of Oil, Gas and Mining and are general rules of statewide application made pursuant to the Mined Land Reclamation Act of 1975. Special rules, regulations, and orders will be issued when necessary or advisable after notice and hearing, and shall prevail as against these general rules, if in conflict therewith.

#### R613-1M-2. Definitions

The following definitions will apply to the rules and regulations of the Mined Land Reclamation Act:

(a) "Deposit" means a natural accumulation of mineral matter in the form of consolidated rock or unconsolidated material, chemical, or organic materials commingled, in solution or otherwise occurring on the surface, beneath the surface, or in the waters of the land from which any product useful to man may be produced, extracted, or obtained. "Deposit" excludes water, geothermal steam, and oil and gas as defined in Chapter 6 of Title 40, but shall include oil shale and bituminous sands extracted by mining operations.

(b) "Development" means the work performed in relation to a deposit following its discovery but prior to production mining operations, aimed at, but not limited to, preparing the site for mining operations, defining further the ore deposit by drilling or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and other activities related to same.

(c) "Exploration" means the act of searching for, or investigating a mineral deposit, including activities for identifying regions or specific areas in which mineral deposits are most likely to exist. "Exploration" includes, but is not limited to; aerial and ground surveys; sinking shafts; tunneling; drilling core and bore holes and digging pits or cuts, and other works for the purpose of extracting samples prior to commencement of development or production mining operations; and the building of roads, access ways, and other facilities related to such work. "Exploration" does not include reconnaissance activities where power machinery, power tools, or explosives are not used.



(d) "Land Affected" means the surface and sub-surface of an area within the state where mining operations are being or will be conducted, including, but not limited to: onsite private ways, roads, and railroad lines appurtenant to any such area; land excavations; exploration sites; drill sites or workings; refuse banks or spoil piles; evaporation or settling ponds or dumps; work, parking, storage, or placer areas; tailings ponds or dumps; work, parking, storage, or waste discharge areas; areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from or are used in such operations, are situated. All lands shall be excluded that would be otherwise includable as land affected but which have been reclaimed in accordance with an approved plan or otherwise, as may be approved by the Board, and lands in which mining operations have ceased prior to July 1, 1977.

(e) "Mining Operation(s)" means those activities conducted on the surface of the land for the exploration for, development of, or the extraction of a mineral deposit from its natural occurrences, including, but not limited to, surface mining and the surface effects of underground and in-situ mining, including onsite transportation, concentrating, milling, evaporation, and other primary processing. It does not include: the extraction of hydrocarbons in a liquid or gaseous state by means of wells or pipe; the extraction of geothermal steam, smelting, refining, manufacturing and related operations; off-site operations and transportation; or any operations which would otherwise be included under mining operations but to which less than 500 tons of mineral and/or nonmineral bearing materials are mined in a period of 12 consecutive months or where less than two acres of land are excavated or used as a disposal site in a period of 12 consecutive months.

(f) "Onsite" means the surface land area within which mining operations are or will be conducted under a Notice of Intention to Commence Mining Operations and which is bounded by continuous property lines defining surface land ownership, control, or right that is vested in the operator. A series of related properties under the control of a single operator but separated by small parcels of land controlled by others will be considered a single site unless excepted by the Division.

(g) "Off-site" means the land areas that are outside of, or beyond the onsite land which is owned or controlled by the operator.

(h) "Operator" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind, either public or private, owning, controlling, or managing a mining operation or proposed mining operation, including exploring for or developing of a mineral deposit.

(i) "Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or otherwise treat the land affected in order to achieve a safe, stable, ecological condition and use which will be consistent with local environmental conditions.

(j) "Regrade or Grade" means to change the topography of any land surface.

(k) "Toxic" means any chemical or biological or adverse characteristic of the material involved which could reasonably be expected to negatively affect ecological or hydrological systems or could be haz-

ardous to the public safety and welfare.

(l) "Surface Mining Operations" means those mining operations conducted on the surface of the land including open pit, strip, or auger mining, dredging, quarrying, leaching, surface evaporation operations, and activities related thereto.

(m) "Underground Mining" shall mean those mining operations carried out beneath the surface by means of shafts, tunnels, or other underground mine openings.

### R613-1M-3. Notice of Intention to Commence Mining Operations

Before any operator shall commence mining operations, or continue mining operations pursuant to Section 40-8-23 of the Mined Land Reclamation Act, and except as provided for in Rule M-3(5), the operator shall file with the Division Form MR-1. As part of said Notice of Intention to Commence Mining Operations, the operator shall, unless waived by the Division, furnish the following:

1. A true or correct map or plat showing the location of the land affected by the operation or proposed operations. Such map or plat shall:

(a) Show by appropriate markings, if possible, the location of the land affected and the total number of surface acres involved.

(b) Within the interior limits of the land affected, show existing active or inactive, underground or surface mined areas; the boundaries of surface properties; and the names of surface and mineral owners.

(c) Be of such scale as prescribed in Rule M-6.

(d) Show the names and locations of all lakes, rivers, reservoirs, streams, creeks, springs, or other bodies of public water, roads, buildings, abandoned or active surface facilities, and transmission lines on the land affected and within 500 feet of the exterior limits of the land affected.

(e) Show the drainage plan on and away from those areas from which the overburden or topsoil will be or has been removed, or will be or has been covered by the nonmineral bearing country rock or which, by virtue of their use are susceptible to excessive erosion. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving or to receive this discharge.

(f) Show the general location and present status of known test borings or core holes. Indicate depth of the various water bearing strata encountered; the thickness of the mineral deposits where applicable, and the thickness and depth of the toxic materials encountered as well as the depth and thickness of plant support material taken from those holes which are representative of the area to be utilized.

(g) Show the location of the storage area for topsoil, and the disposal area for overburden, waste, tailings, or rejected materials and water.

(h) If any, describe water to be disposed of, giving in general terms, expected acid or salt content and expected impact on downstream water systems.

Information provided in the Notice of Intention and its attachments relating to the location, size, or nature of the deposit, and marked confidential by the operator, shall be protected as confidential information by the Board and the Division and not be a matter of public record in the absence of a written release from the operator, or until the mining operation has been terminated as provided in subsection 40-8-21(2) of the Act.

2. A plan for the reclamation of the land affected

unless a waiver is specifically granted by the Division, each such plan shall include the following (see Form MR-1):

(a) A statement of known prior and current uses to which the land was put, including estimates of current surface resources and its capabilities to support a variety of uses or potential uses.

(b) The possible uses for the land following termination of mining operations.

(c) The manner in which the overburden, topsoil, tailings, waste, and rejected materials will be deposited.

(1) Where conditions permit, the manner in which the plant supporting materials will be conserved and restored. If no such material exists, an explanation of said conditions shall be given.

(2) An explanation of how toxic or otherwise unsuitable materials will be segregated and disposed of.

(d) Where grading, backfilling, compaction, etc., of the soil or fill is desirable, the manner and extent of how such will be accomplished shall be explained.

(e) A planting program as best calculated to revegetate the land affected. Where there is no original protective cover, an alternate practical procedure should be proposed to minimize or control erosion or siltation. When applicable, the objective in revegetation should be to stabilize the land as quickly as possible after it has been disturbed in order to achieve permanent and protective vegetative cover. Nonnoxious native plants that will give a quick, permanent, protective cover and enrich the soil shall be given priority.

(f) A timetable for the accomplishment of each major step in the reclamation plan.

(3) State the general details of the type or method of mining proposed.

(4) Within 30 days from the receipt of the Notice of Intention to Commence Mining Operations, except as provided for in Section 40-8-23 of the Act, the staff of the Division shall review the same and shall make such inquiries, inspections, or examinations as may be necessary or desirable for proper evaluation of the information expressly required by this rule. The operator shall be promptly notified of any objections found and he shall be afforded a reasonable opportunity to take such action as may be required to remove the objections or obtain a ruling relative to said objections from the Board.

(5) A letter of intention to commence exploratory drilling shall be required where seismic, core, and stratigraphic tests are drilled for the purpose of identifying and delineating mineral deposits. Activities also included are: digging pits, trenches, or cuts and other works; and the building of roads, access ways, air strips, and other facilities related to exploration drilling. The letter of intention to commence exploration shall be submitted prior to exploration and the Division shall review and request any changes in the proposed plan within fifteen (15) days after it is filed. All information in the letter relating to the location, size, or nature of the deposit will be held confidential by the Division unless released by written permission from the operator. The letter shall include the following information:

(a) The location of all planned drill holes, cuts and roadways, air strips, or other ground disturbances related to the operation. The drill holes, other than seismic shot holes, must be identified and located to the quarter section, either by narrative or

map. The general area of possible step out holes, and/or seismic holes, should be described. The access ways to the drill holes can be described by map or narrative.

(b) The general dimensions of all drill holes.

(c) The plugging program for all drill holes.

(1) All drill holes 2 1/2 inches or larger in diameter at the surface shall be plugged in the subsurface with material suitable in the discretion of the Division, to prevent the migration of water, gas, oil, or other substances from one strata to another.

(2) Irrespective of any water, oil, gas, or other potential migratory substance found, all drill holes shall be plugged at the surface with a plug consisting of at least five feet of cement. Other methods given prior approval by the Division may be used if such site specific or procedure specific exceptions are warranted.

(d) The reclamation plans for all ground disturbances related to the operation. All ground disturbances not having continuing postoperation use shall be reclaimed in such a manner compatible with local conditions as approved by the Division.

Report Form MR-9 shall be filed with the Division for all mineral exploration work undertaken and approved within the limits of this rule. It shall not be filed in lieu of reporting requested under Rule M-8.

All drill holes made as step outs to an initial proposed drilling program should be described as in (a) through (d) above to the Division as soon as possible. The additional information may be filed as an addendum to the original notice and will not require approval.

#### R613-1M-4. Notice to Public and Interested Parties (Except as Provided in Section 40-8-23 of the Mined Land Reclamation Act)

Within 30 days after receipt of the Notice of Intention or within 30 days following the last action of the operator or the Division on the Notice of Intention, the Division shall reach a tentative decision with respect to the approval of the Notice of Intention, whereupon the information relating to the surface of the land affected and the tentative decision shall be forwarded to the operator and be published, in abbreviated form, one time only, in all newspapers of general circulation published in the county or counties where the land affected is situated and in a daily newspaper of general circulation in Salt Lake City, Utah. A copy of the abbreviated information and tentative decision shall also be mailed to the zoning authority of the county or counties in which the land affected is situated and to the owner or owners of record of the land affected and an affidavit of mailing shall be submitted by the Division. Any person or agency affected by the tentative decision may file a written protest with the Division, setting forth factual reasons for his complaint. If no factual written protests from adversely affected interests are received by the Division within 30 days after the last date of publication, the tentative decision on the Notice of Intention shall become final and the operator will be so notified. If written objections of substance are received, a hearing shall be held before the Board in accordance with 40-8-8 of the Act, following which the Board shall issue its decision.

#### R613-1M-5. Surety Guarantee

After receiving notification that the Notice of Intention to Commence Mining Operations has been approved, but prior to commencement of operation



ions, the operator shall provide surety to the Division unless surety acceptable to the Board has previously been filed with the Division of State Lands or an agency of the federal government for the purpose of assuring an acceptable degree of land reclamation as outlined in the Approved Notice.

In determining the amount of surety to be provided, the Board shall consider among other things, factual information and recommendations provided for reclamation activities planned for the land affected and the nature, extent, and duration of operations under the approved notice. The Board shall approve a fixed amount estimated as required at any point in time covered by the Notice of Intent to complete reclamation.

Liability under surety provisions shall continue until such time as released as to part, or in its entirety, by the Division.

If the operator fails or refuses to carry out the necessary land reclamation as outlined in the approved Notice of Intention, the Board may, after notice and hearing, declare any surety filed for this purpose forfeited. With respect to the surety filed with the Division, the Board shall request the Attorney General to take the necessary legal action to enforce and collect the amount of liability. Where surety or a bond has been filed with the Division of State Lands or an agency of the federal government, the Board shall certify a copy of the transcript of the hearing to the Division or such agency, together with a request that the necessary forfeiture action be taken. The forfeited surety shall be used only for the reclamation of the land to which it relates, and any residual amount returned to the rightful claimant.

#### R613-1M-6. Plans and Maps

All maps and plans prepared for submission with the Notice of Intention to Commence Mining Operations shall be of adequate scale and detail to show topographic features and clearly indicate details of the proposed operations in accordance with Rule M-3. A color code, or other legend, shall be used in preparing all maps to clearly indicate surface features of the land affected.

#### R613-1M-7. Notification of Suspension of Operations

(1) In the case of temporary suspension of mining operations, excluding labor disputes, expected to be in excess of six months, but less than two years duration, the operator shall, within 30 days, notify the Division.

(2) In the case of a termination of mining operations or a suspension of such operations expected to extend for a period of two years, or more, the operator shall furnish the Division with such data as it may require in order to evaluate the status of the mining operation, performance under the reclamation plan, and the probable future status of the mineral deposit and condition of the land affected.

(3) Upon receipt of notification of termination or extended suspension, the Division shall within 30 days cause inspection to be made of the property and take whatever action may be appropriate in furtherance of the purposes of this Act.

(4) The full release by the Division of surety posed under an approved notice of intention shall be prima facie evidence that the operator has fully complied with the provisions of this Act.

#### R613-1M-8. Reports

(a) Within 30 days after commencement of mining

operations under an approved Notice of Intention, the operator shall give notice of such commencement to the Division.

(b) At the end of each calendar year, unless waived by the Division, each operator conducting mining operations under an approved Notice of Intention shall file an operations and progress report with the Division, on a form prescribed and furnished by the Division, setting forth:

(1) The location of the operation and the number and date of the approved Notice of Intention to Commence Mining Operations to which the operator refers.

(2) The gross amount of materials moved during the year, as well as the disposition of such material.

(3) The current status of the reclamation work performed by month pursuant to the reclamation plan.

(c) In addition to the foregoing, the operator shall include, but not more frequently than annually, an updated map and plan, prepared in accordance with Rule M-3, to the Division. However, it shall be the responsibility of the operator to keep and maintain timely records relating to his performance under the Mined Land Reclamation Act, in such a place and in such a manner so as they may be examined at any time by members of the Division staff.

#### R613-1M-9. Practice and Procedure

The rules of Practice and Procedure as outlined in the R619 Rules will be applicable for Mined Land Reclamation proceedings before the Board.

#### R613-1M-10. Reclamation Standards

The following reclamation standards are established where applicable for all work or activity required to be performed in accordance with reclamation plans approved subsequent to June 1, 1978. Mine workings abandoned prior to May, 1975, need not be reclaimed unless said workings are utilized for subsequent operations. Areas on which these standards are proposed to be nonapplicable will be designated on the maps submitted by the operator in accordance with Rule M-6, and may be shown on supplementary ground or air photographs.

Said standards shall apply to all operations covered by a mining and reclamation plan.

1. Land Use - The operator shall abandon the area affected in a condition which is capable of supporting a postmining use that is compatible with probable land uses.

2. Public Safety and Welfare - The operator shall minimize hazards to the public safety and welfare following mining. Methods to minimize hazards shall include but not be limited to:

(a) The closing of shafts and tunnels to prevent unauthorized or accidental entry.

(b) The disposal of trash, scrap metal, and wood, unusable buildings, extraneous debris, and other materials incident to mining in a manner approved by the Division and in accordance with the Rules and Regulations of the Division of Health.

(c) The plugging and capping of drill, core, or other exploratory holes as set forth in Rule M-3(5).

(d) The posting of appropriate warning signs in locations where public access to operations is readily available.

(e) The construction of berms, fences, and/or barriers above highwalls or other excavations when required by the Division.

3. Impoundments - All evaporation, tailings, and sediment ponds, spoil piles, fills, pads, and regraded areas shall be self-draining and nonimp-

ounding when abandoned unless previously approved as an impounding facility by a lawful state or federal agency

4. Slopes - All waste piles, spoil piles, and fills shall, if possible, be regraded to a rounded configuration and they shall be sloped to minimize safety hazards and erosion. The angle of slope from the bottom to the top of the pile or fill can be greater than the surrounding terrain provided that the mass stability of the slope is assured and that the erosion of the slope is minimized by measures such as, but not limited to; terracing, surface drainage facilities, cross-slope ripping or scarifying and vegetation. In no case, shall the slope of a pile or fill exceed the angle of repose of the material or such lesser slope as required by the Division considering such factors as: land use, material properties, revegetation potential, or erosion control.

5. Highwalls - In strip mining or open pit mining and in open cuts for pads or roadways, all such highwalls shall be reclaimed by backfilling against them or by cutting the wall back to achieve a slope of angle of 45° or less. Where the highwall is composed of solid rocks; is designed to be stable utilizing benches, tie-backs, etc.; or, there is insufficient material reasonably available to backfill; or cutting the wall back would result in excessive damage to undisturbed land above the highwall; and, taking into consideration suitable alternative safety measures; future land use, etc.; the Division may modify or waive the above requirements.

6. Toxic Materials - All toxic or potentially toxic material, as defined by Rule M-2(k), shall be safely removed from the site or left in an isolated condition such that solid, liquid or gaseous toxic emissions to the environment are reasonably eliminated or controlled. Such isolation practices may include, but not be limited to burial, subsurface injection, chemical precipitation or neutralization, and filtering. All appropriate regulations of the Division of Health must be complied with as well as federal regulations.

7. Roads and Pads - Onsite roads and pads shall be reclaimed or stabilized when the operator determines that they are no longer needed for operations. The reclamation should include provisions for adequate surface drainage, erosion protection and unrestricted drainage crossings. When a road or pad is to be turned over to an approved continuing use, as determined by the operator, the operator shall turn over the property with adequate surface drainage, structures, ditching, and in a general condition suitable for the continued use.

8. Drainages - All natural channels and associated flood plains shall not be covered, restricted or rerouted by roads, pads, piles, fills or diversions unless specifically approved by the Division after a suitable hydrologic study and incorporating a sound hydraulic design. All drainage structures, sediment or flood control structures, spoil, ore, waste, fill material, and debris must be removed from natural channels and flood plains before an operator abandons the site, except where approved by the Division.

9. Structures and Equipment - All structures, rail lines, utility connections, equipment, and debris shall be removed from the surface prior to regrading and reclamation unless temporarily abandoned or approved by the Division for a continuing use.

10. Shafts and Portals - All shafts and portals shall be covered or closed and all trenches and small pits shall be backfilled or covered when a mine has

been abandoned so as to eliminate any safety hazard.

11. Sediment Control - Mining operations shall be conducted in a manner such that sediment from areas disturbed in mining or reclamation activities is adequately controlled. The degree of sediment control shall be appropriate for the site-specific and regional conditions of topography, soil, drainage, water quality, or other characteristics.

12. Revegetation - Where possible, a self-sustaining vegetative cover consisting of nonnoxious perennial plants shall be established by the operator subsequent to final grading on the entire area affected. Plants shall be a diverse mixture of grasses, shrubs, forbs, and where potential for forestation exists, trees, the mixture may include both native and introduced species. Revegetation shall be performed using professionally accepted methods such as seeding, transplanting, or propagating by cuttings.

(1) The species selection shall reflect the postmining land use as set forth in Rule M-10(1).

(2) Revegetation shall be deemed to be accomplished and successful when:

(a) Species intended for revegetation by this Rule have achieved a surface cover of at least 70% of the representative vegetative communities surrounding the mine. Surrounding vegetative cover levels shall be determined by the operator using professionally accepted inventory methods and be approved by the Division.

(b) The vegetation initiated on the area affected has survived for at least three growing seasons, is evenly distributed, and is not supported by irrigation or continuing soil amendments.

(3) Exceptions to Part 12 may be granted by the Division for areas which consist of solid rock outcrops and it is demonstrated by the operator that sufficient surficial soil does not exist for covering said outcrops. Test plots established by the operator in consultation with the Division shall demonstrate after all practical land treatments have been attempted that the revegetation standards are not attainable.

Practical land treatments may include but not be limited to: scarifying, mulching, fertilization, irrigation, chisel plowing, harrowing, and the introduction of soil mycorrhiza.

13. Dams - All major water impounding structures such as tailings dams, water storage and supply dams, coal waste dams, and major sedimentation control dams shall be reclaimed when abandoned so as to be nonimpounding, self-draining, mechanically stable, and protected from erosion.

14. Soils - Except where slope or rocky terrain make it impossible, all surficial materials, suitable as a growth medium, prior to any major excavation, shall be removed, segregated, and stockpiled according to its ability to support vegetation as determined by soil analysis and/or practical revegetation experience. The stockpiles shall be protected in such a manner as to minimize or prevent wind and water erosion, unnecessary compaction, and contamination by undesirable materials. Redistribution of surficial material after final grading shall be accomplished in such a manner as to promote revegetation success.

15. Appeals to the Board - Any operator who is aggrieved by a decision of the Division in enforcing these standards, may petition the Board for a hearing pursuant to Section 40-8-8.

1987 40-8-1 et seq



**R614. Coal**

- R614-1A. Chapter I - Subchapter A - General - UMC Regulations Pertaining to Surface Effects of Underground Coal Mining Activities**
- R614-1F. Subchapter F - Areas Unsuitable for Surface Effects of Underground Coal Mining Activities**
- R614-1G. Subchapter G - Underground Coal Mining Activities Permits and Coal Exploration Procedures Systems**
- R614-1J. Subchapter J - Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations**
- R614-1K. Subchapter K - UMC Permanent Program Performance Standards**
- R614-1L. Subchapter L - Inspection and Enforcement Procedures**
- R614-1M. Subchapter M - Training, Examination, and Certification of Blasters**
- R614-1P. Subchapter P - Protection of Employees**
- R614-1Q. Subchapter Q - Applicability of 40-8-1 et seq. and Rules M-1 Through M-10**
- R614-2A. Chapter II - Subchapter A - General - SMC Regulations Pertaining to Surface Coal Mining Activities**
- R614-2G. Chapter G - Surface Coal Mining and Reclamation Activities Permits and Coal Exploration Procedures Systems**
- R614-2J. Subchapter J - Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations**
- R614-2K. Subchapter K - Permanent Program Performance Standards**
- R614-2L. Subchapter L - Inspection and Enforcement Procedures**
- R614-2M. Subchapter M - Training, Examination, and Certification of Blasters**
- R614-2P. Subchapter P - Protection of Employees**
- R614-2Q. Subchapter Q - Applicability of 40-8-1 et seq. and Rules M-1 Through M-10**

**R614-1A. Chapter I - Subchapter A - General - UMC Regulations Pertaining to Surface Effects of Underground Coal Mining Activities**

- R614-1A-700. Part UMC 700 - General**
- R614-1A-705. Part UMC 705 - Restrictions on State Employees Financial Interest**
- R614-1A-707. Part UMC 707 - Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction**

**R614-1A-700. Part UMC 700 - General**  
**UMC 700.1 Scope**

This Chapter I, consisting of Parts UMC 700-900, establishes the procedures through which the Utah State Division of Oil, Gas and Mining will implement those provisions of the Coal Mining Reclamation Act of 1979, (U.C.A. 40-10-1 et seq.) pertaining to surface effects of underground coal mining activities and includes regulations implementing U.C.A. 40-10-8 of the Act pertaining to coal exploration. Regulations pertaining to coal exploration are also set forth in Chapter II. Chapter I is divided into the following subchapters:

(a) Subchapter A contains general introductory information intended to serve as a guide to the rest of the chapter and to the regulatory requirements and definitions generally applicable to the program and persons covered by those provisions of the Act that are applicable to coal exploration and surface effects of underground coal mining activities.

(b) Subchapter F implements those requirements of the Utah Coal Mining Reclamation Act of 1979

for designating certain lands unsuitable for all or certain types of surface effects of underground coal mining activities and for termination of such designations.

(c) Subchapter G governs applications for and decisions on permits for underground coal mining activities and approvals.

(d) Subchapter J sets forth requirements for performance bonds and public liability insurance for underground coal mining activities.

(e) Subchapter K sets forth the environmental and other performance standards which apply to coal exploration and underground coal mining activities. Performance standards applicable to special coal mining situations such as alluvial valley floors and prime farmlands are included.

(f) Subchapter L sets forth the inspection, enforcement, and civil penalty provisions.

(g) Subchapter M will set forth the requirements for training, examination, and certification of blasters.

(h) Subchapter P sets forth the provision for the protection of employees who initiate proceedings under the Act or testify in any proceeding resulting from the administration or enforcement of the Act.

(i) Subchapter Q sets forth the applicability of certain provisions of 40-8, U.C.A. (1953, as amended, (the Utah Mined Land Reclamation Act of 1975)) and Rules M-1 through M-10 to the Utah state program.

**UMC 700.2 Notations**

This copy of the Regulations Pertaining to Surface Effects of Underground Mining Activities (including regulations for coal exploration) incorporates changes that have been adopted by the Board of Oil, Gas and Mining and approved by the Office of Surface Mining Reclamation and Enforcement through March 1987.

Sections marked with a single asterisk indicate regulations remanded, in whole or in part, by either the Secretary of the Department of the Interior or the U. S. Court of Appeals (Judge Flannery's decisions). Whereas, sections marked with double asterisks indicate regulations suspended, in whole or in part, by the Secretary or the Court.

**\*Remanded**

**\*\*Suspended**

**UMC 700.5 Definitions**

As used in this chapter, the following terms have the specified meanings, except where otherwise indicated:

"Account" means abandoned mine reclamation account established pursuant to 40-10-25 of the Act.

"Act" means Utah Code Annotated U.C.A. 40-10-1 et seq.

"Acid drainage" means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity, discharged from active, inactive, or abandoned underground coal mining activities or from an area affected by underground coal mining activities.

"Acid-forming materials" means earth materials that contain sulfide minerals or other materials which, if exposed to air, water, or weathering processes, form acids that may create acid drainage.

"Adjacent area" means the area outside the permit area where a resource or resources, determined according to the context in which adjacent area is used, are or reasonably could be expected to be adversely impacted by proposed mining operations, including probable impacts from underground

# UTAH STATE BULLETIN

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SEP 15 1988

BARSONS, BEHLE & LATIMER  
SALT LAKE CITY, UTAH

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed August 21, 1988 through 5:00 p.m. September 6, 1988

NUMBER 88-18  
September 15, 1988

William S. Callaghan, Editor

The Utah State Bulletin is the official noticing publication of the executive branch of Utah State Government. The Division of Administrative Rules, Department of Administrative Services, produces the Bulletin under authority of Section 63-46a-10, Utah Code Annotated 1953, as a public service.

Inquiries concerning administrative rules or other contents of the Bulletin may be addressed to the responsible agency or to: Division of Administrative Rules, Archives Building, State Capitol, Salt Lake City, Utah 84114, telephone 801-538-3011.

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State of Utah  
Administrative Rule Analysis  
Notice of Proposed Rule/Change

D.A.R. FILE NUMBER

003582

CODE NUMBER

AGENCY - RULE - SECTION

R

613-004

Division of Administrative Rules  
State Archives Building, State Capitol  
Salt Lake City, Utah 84114  
Telephone 538-3011

Department: NATURAL RESOURCES  
Agency: OIL, GAS & MINING  
Address: 3 TRIAD CENTER - SUITE 350  
SLC, UTAH 84180-1203  
Contact Person: KENNETH MAY, LOWELL BRAXTON  
Telephone: (801) 538-5340

1. CODE TITLE OF RULE OR SECTION  
MINERALS RECLAMATION PROGRAM RULES

2. BRIEF SUMMARY OF RULE OR CHANGE AND REASON FOR IT

This proposed amended and new rule, R613-004, regulates the minerals reclamation program in concurrence with the Mined Land Reclamation Act, Chapter 8, Title 40, U.C.A., amended 1987. This proposed rule takes into consideration those critical public comments received on the rules proposed on April 15, 1988. Rules R613-001 thru R613-005 are listed as five individual rules to comply with the requirements of the Division of Administrative Rules.

3. ANTICIPATED COST IMPACT OF RULE — UCA 63-46a-4(3)(d)

These rule changes will not result in increased staff or budget requirements with the Division. State cost for reclaiming abandoned, unreclaimed operations will be reduced through required reclamation provisions.

4. TYPE OF NOTICE

☒ PROPOSED RULE (NEW, AMEND OR REPEAL)

☐ 120-DAY RULE — UCA 63-46a-7

☐ CHANGE IN PROPOSED RULE (CHANGES PROPOSED RULE FILE NUMBER \_\_\_\_\_)

☐ FIVE-YEAR REVIEW/CONTINUATION

5. JUSTIFICATION FOR 120-DAY RULE CHECKED ABOVE

N/A

6. ☒ RULE AUTHORIZED BY STATE CODE (CITATION): U.C.A. 40-8-6(1)(a)

☐ RULE REQUIRED BY FEDERAL MANDATE (U.S. CODE OR FED. REGISTER CITATION):

7. PUBLIC MAY PARTICIPATE IN RULEMAKING BY:

(REQUIRED ONLY FOR PROPOSED RULES)

☐ PUBLIC HEARING (MAY BE OPTIONAL)

☐ APPEARANCE AT

☒ WRITTEN COMMENT

DATE:

TIME:

AGENCY UNTIL:

UNTIL:

PLACE:

October 17, 1988

NOTE: PUBLIC MAY REQUEST HEARING IN ACCORDANCE WITH UCA 63-46a-5(2)(b)

8. INDEXING INFORMATION

AGENCY NOTE: TEXT MUST BE IN CODE FORMAT

STATE STATUTE CITATION(S): 40-8-6(1)(a) et. seq.

KEY WORD(S): Mining Regulations, Minerals Reclamation

THE FULL TEXT OF ALL PROPOSED ADMINISTRATING RULES OR RULE CHANGES IS PUBLISHED IN THE UTAH STATE BULLETIN UNLESS EXCLUDED BECAUSE OF LENGTH AND SPACE LIMITATION. THE FULL TEXT MAY BE INSPECTED AT THE AGENCY (ADDRESS ABOVE) OR DIVISION OF ADMINISTRATIVE RULES.

9. AUTHORIZATION

10. DIVISION OF ADMINISTRATIVE RULES

RECEIVED BY: KAH DATE: 9/6/88 TIME: 4:15pm

120-DAY RULE EFFECTIVE: N/A LAPSES: N/A

☒ TOO LONG TO PRINT

PAGES: 10

AGENCY HEAD OR DESIGNEE

DATE

DIVISION OF OIL, GAS AND MINING

AGENCY

SEND WHITE & YELLOW TO D A R , YELLOW WILL BE RETURNED TO AGENCY

# UTAH STATE BULLETIN

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DEC 19 1988

BARSONS, BEHLE & LATHAM  
SALT LAKE CITY, UTAH

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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December 15, 1988

William S. Callaghan, Bulletin Editor

The Utah State Bulletin is the official noticing publication of the executive branch of Utah State Government. The Division of Administrative Rules, Department of Administrative Services, produces the Bulletin under authority of Section 63-46b-10, Utah Code Annotated 1953, as a public service.

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NOTICES OF RULE EFFECTIVE DATES  
(Effective date of rule published as a proposal in an earlier Bulletin)

Education

Administration

No. 9677: R300-712 Standards for Advanced Placement Programs  
Published November 1, 1988  
Effective December 2, 1988

Health

Community Health Services

Epidemiology

No. 9612: R429-801-1 Aids Testing and Reporting  
for Emergency Medical Service Providers  
Published October 15, 1988  
Effective December 1, 1988

Human Resource Management

Administration

No. 9688: R20-2-1 Applicability  
Published November 15, 1988  
Effective December 16, 1988

No. 9689: R20-2-3 & 7 Compliance Responsibility  
and Employment Eligibility Certification  
Published November 15, 1988  
Effective December 16, 1988

No. 9690: R20-3-1 Personal Service Expenditures  
Published November 15, 1988  
Effective December 16, 1988

No. 9691: R20-4-1 Classification  
Published November 15, 1988  
Effective December 16, 1988

No. 9692: R20-5-1 Filing Positions  
Published November 15, 1988  
Effective December 16, 1988

No. 9693: R20-6-1 Reciprocity  
Published November 15, 1988  
Effective December 16, 1988

No. 9694: R20-7-1 & 4 Compensation  
Published November 15, 1988  
Effective December 16, 1988

No. 9695: R20-8-1 & 4 Working Conditions  
Published November 15, 1988  
Effective December 16, 1988

No. 9696: R20-10-1 Employee Development  
Published November 15, 1988  
Effective December 16, 1988

No. 9697: R20-12-1 Separations  
Published November 15, 1988  
Effective December 16, 1988

No. 9698: R20-13-1 Volunteer Programs  
Published November 15, 1988  
Effective December 16, 1988

#### Industrial Commission

##### Employment Security

No. 9638: R475-22p Wages  
Published October 15, 1988  
Effective December 1, 1988


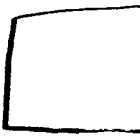
#### Natural Resources

##### Oil, Gas & Mining

No. 9579: R613-1 Minerals Reclamation Program Rules  
Published September 15, 1988  
Effective December 1, 1988

No. 9580: R613-2 Minerals Reclamation Program Rules  
Published September 15, 1988  
Effective December 1, 1988

No. 9581: R613-3 Minerals Reclamation Program Rules  
Published September 15, 1988  
Effective December 1, 1988

  No. 9582: R613-4 Minerals Reclamation Program Rules  
Published September 15, 1988  
Effective December 1, 1988

No. 9583: R613-5 Minerals Reclamation Program Rules  
Published September 15, 1988  
Effective December 1, 1988

#### Social Services

##### Aging and Adult Services

No. 9670: R805-100-1 & 3 Funding Formula  
Published November 1, 1988  
Effective December 1, 1988

#### Transportation

##### Administration

No. 9614: R928-77 Hay Truck Operations  
Published October 15, 1988  
Effective November 15, 1988

No. 9615: R928-78 Reduce Restrictions on 10 Foot Wide Loads  
Published October 15, 1988  
Effective November 15, 1988

No. 9617: R917-3-10 Private Participation  
Published October 15, 1988  
Effective November 16, 1988



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**ADMINISTRATIVE CODE**  
**1989**

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Norman H. Bangerter, Governor

Dr. William S. Callaghan  
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**R613-4-116. Public Notice and Appeals**

1. Public notice will be deemed complete when the following actions have been taken:

(1.) A description of the disturbed area and the tentative decision to approve or disapprove the notice of intention shall be published by the Division in abbreviated form, one time only, in all newspapers of general circulation published in the county or counties where the land affected is situated, and in a daily newspaper of general circulation in Salt Lake City, Utah.

(2.) A copy of the abbreviated information and tentative decision shall also be mailed by the Division to the zoning authority of the county or counties in which the land affected is situated and to the owner or owners of record of the land affected, as described in the notice of intention.

2. Any person or agency aggrieved by the tentative decision may file a written protest with the Division, during the public comment period identified in the notice, setting forth factual reasons for the complaint.

3. If no responsive written protests are received by the Division within 30 days after the last date of publication, the tentative decision of the Division on the notice of intention shall be final and the operator will be so notified.

4. If written objections of substance are received by the Division during the public comment period, a hearing shall be held before the Board in accordance with UCA 40-8-9, following which hearing the Board shall issue its decision.

**R613-4-117. Notification of Suspension or Termination of Operations**

1. The operator need not notify the Division of the temporary suspension of mining operations.

2. In the case of a termination or a suspension of mining operations that has exceeded, or is expected to exceed two (2) years, the operator shall, upon request, furnish the Division with such data as it may require to evaluate the status of the mining operation, the status of compliance with these rules, and the probable future status of the land affected. Upon review of such data, the Division will take such action as may be appropriate. The Division may grant an extended suspension period if warranted.

3. The operator shall give the Division prompt written notice a termination or suspension of large mining operations expected to exceed five (5) years. Upon receipt of notification, the Division shall, within 30 days, make an inspection of the property.

4. Large mining operations that have been approved for an extended suspension period will be reevaluated on a regular basis. Additional interim reclamation or stabilization measures may be required in order for a large mining operation to remain in a continued state of suspension. Reclamation of a large mining operation may be required after five (5) years of continued suspension. The Division will require complete reclamation of the mine site when the suspension period exceeds 10 years, unless the operator appeals to the Board prior to the expiration of said 10-year period for a longer suspension period.

**R613-4-118. Revisions**

1. In order to revise a notice of intention, an operator shall file a Notice of Intention to Revise Large Mining Operations (FORM MR-REV). This notice of intention will include all information concerning the revision that would have been required in the original notice of intention.

2. A Notice of Intention to Revise Large Mining Operations (FORM MR-REV) will be processed and considered for approval by the Division in the same manner as an original notice of intention. The operator will be authorized and bound by the requirements of the existing approved notice until the revision is acted upon and any revised surety requirements are satisfied. Those portions of the approved notice of intention not subject to the revision will not be subject to review under this provision.

3. Large mining operations which have a disturbed area of five (5) acres or less may refile as a small mining operation. Reclaimed areas must meet full bond release requirements before they can be excluded from the disturbed acreage.

**R613-4-119. Amendments**

1. An amendment is an insignificant change to the approved notice of intention. The Division will review the change and make the determination of significance on a case-by-case basis.

2. A request for an amendment should be filed on the Notice of Intention to Revise Large Mining Operations (FORM MR-REV). An amendment of a large mining operation requires Division approval but does not require public notice.

**R613-4-120. Transfer of Notice of Intention**

If an operator wishes to transfer a mining operation to another party, an application for Transfer of Notice of Intention - Large Mining Operations (FORM MR-TRL), must be completed and filed with the Division. The new mine operator will be required to post a new reclamation surety and must assume full responsibility for continued mining operations and reclamation.

**R613-4-121. Reports**

1. On or before January 31 of each year, unless waived in writing by the Division, each operator conducting large mining operations must file an Annual Report of Mining Operations (FORM MR-AR) describing its operations during the preceding calendar year. Form MR-AR, includes:

1.11. The location of the operation and file number of the approved notice of intention;

1.12. The gross amounts of ore and waste materials moved during the year, as well as the disposition of such materials;

1.13. The reclamation work performed during the year and new surface disturbances created during the year.

2. The operator shall include an updated map depicting surface disturbance and reclamation performed during the year, prepared in accordance with Rule R613-4-105.

3. The operator shall keep and maintain timely records relating to his performance under the Act, and shall make these records available to the Division upon request.

**R613-4-122. Practices and Procedures; Appeals**

The Administrative Procedures, as outlined in the R613-5 Rules, shall be applicable to minerals regulatory proceedings.

1988 40-8-1 et seq.

**R613-5. Administrative Procedures**

**R613-5-101. Formal and Informal Proceeding**

**R613-5-102. Informal Process**

**R613-5-103. Definitions**

**R613-5-104. Commencement of Adjudicative**

**Proceedings**

**R613-5-105. Conversion of Informal to Formal Phase**

**R613-5-106. Procedures for Informal Phase**

**R613-5-107. Exhaustion of Administrative Remedies**

**R613-5-108. Waivers**

**R613-5-109. Severability**

**R613-5-110. Construction**

**R613-5-111. Time Periods**

**R613-5-101. Formal and Informal Proceeding**

1. Adjudicative proceedings which shall commence formally before the Board in accordance with the rules of Practice and Procedure before the Board of Oil, Gas and Mining include the following: R614-2-112, Failure to Reclaim, Forfeiture of Surety; R613-3-111, Failure to Reclaim, Forfeiture of Surety; R613-3-112.5, Over 10-Year Suspension; R613-4-114, Failure to Reclaim, R613-4-117.5, Over 10-Year Suspension.

2. Adjudicative proceedings which shall commence informally before the Division in accordance with this Rule R613-5 include the following: R613-2-101, Notice of Intent to Commence Mining Operations, Variance Request; R613-2-102, Extension; R613-2-107, Variance; R613-2-108, Unplugged Over 30 Days/Alternative Plan; R613-2-109, Reclamation Practices Variance; R613-2-109.13, Revegetation Approval; R613-2-110, Variance, Revocation or Adjustment of Variance; R613-2-111, Release of Surety; R613-2-114, New or Revised Notice of Intention; R613-3-101, Notice of Intention to Commence Small Mining Operations, Variance Requests; R613-3-107, Variances; R613-3-108, Unplugged over 30 Days/Alternate Plan; R613-3-109, Reclamation Practices Variance; R613-3-109.13, Revegetation Approval; R613-3-110, Variance, Revocation, or Adjustment of Variance; R613-3-112, Waiver, Annual Report; R613-3-112.3 and R613-3-112.4, Termination or Suspension; R613-3-112.5, Reevaluations, Reclamation; R613-3-113, Mine Enlargement; R613-3-114, Amendments; R613-3-116, Report Waiver; R613-4-101, Notice of Intention to Commence Large Mining Operation, Variance Request; R613-4-102, Updated Information or Modifications; R613-4-107, Variances; R613-4-108, Unplugged over 30 Days/ Alternate Plan; R613-4-111, Reclamation Practice, Variance; R613-4-111.13, Revegetation Approval; R613-4-112, Variances, Revocation or Adjustment; R613-4-113, Release of Surety; R613-4-117, Annual Report, Waiver; R613-4-117.3 and R613-4-117.4, Termination or Suspension; R613-4-117.5, Reevaluations, Reclamation; R613-4-118, Revisions; R613-4-119, Amendments; R613-4-121, Annual Report, Waiver.

3. Adjudicative proceedings which shall commence before the Board but follow the procedures for the informal process in this Rule R613-5 include the following:

R613-2-111, Surety, Form and Amount; and R613-4-113, Surety, Form and Amount.

**R613-5-102. Informal Process**

Adjudicative proceedings declared by these rules hereinabove to commence in the informal phase shall be processed according to Rule R613-5 et seq. below. All other requirements of the Mineral Rules shall apply when they supplement these rules governing the informal phase and when not in conflict with any of the rules of R613-5. Notwithstanding this, any longer time periods provided for in the Mineral Rules shall apply.

**R613-5-103. Definitions**

Definitions as used in these rules may be found under R613-1-106.

**R613-5-104. Commencement of Adjudicative****Proceedings**

1. Except for emergency orders described further in these rules, all adjudicative proceedings that commence in the informal phase shall be commenced by either:

1.11. A Notice of Agency Action, if proceedings are commenced by the Board or Division; or

1.12. A Request for Agency Action, if proceedings are commenced by persons other than the Board or Division.

2. A Notice of Agency Action shall be filed and served according to the following requirements:

2.11. The Notice of Agency Action shall be in writing and shall be signed on behalf of the Board if the proceedings are commenced by the Board, or by or on behalf of the Division Director if the proceedings are commenced by the Division. A Notice shall include:

2.11.111 The names and mailing addresses of all persons to whom notice is being given by the Board or Division, and the name, title, and mailing address of any attorney or employee who has been designated to appear for the Board or Division;

2.11.112 The Division's file number or other reference number;

2.11.113 The name of the adjudicative proceeding;

2.11.114 The date that the Notice of Agency Action was mailed;

2.11.115 A statement that the adjudicative proceeding is to be conducted informally according to the provisions of these Rules and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended), if applicable;

2.11.116 A statement that the parties may request an informal hearing before the Division within ten (10) days of the date of mailing or publication and that failure to make such a request for hearing may preclude that party from any further participation, appeal or judicial review in regard to the subject adjudicative proceeding;

2.11.117 A statement of the legal authority and jurisdiction under which the adjudicative proceeding is to be maintained;

2.11.118 The name, title, mailing address, and telephone number of the Division Director; and

2.11.119 A statement of the purpose of the adjudicative proceeding and, to the extent known by the Division Director, the questions to be decided.

2.12. Unless waived, the Division shall:

2.12.111 Mail the Notice of Agency Action to each party and any other person who has a right to notice under statute or rule; and

2.12.112 Publish the Notice of Agency Action if required by statute or by the Mineral Rules.

2.13. All the listed adjudicative processes that commence informally may be petitioned for by a person other than the Division or Board. That person's Request for Agency Action shall be in writing and signed by the person invoking the jurisdiction of the Division or by his or her attorney, and shall include:

2.13.111 The names and addresses of all persons to whom a copy of the Request for Agency Action is being sent;

2.13.112 A space for the Division's file number or other reference number;